

EXHIBIT 2

Deposition of State Health Plan Executive Administrator Dee Jones

EXHIBIT 2



Deposition of:

Dee Jones

August 3, 2021

In the Matter of:

Kadel, et al vs. Folwell

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IN THE UNITED STATES DISTRICT COURT FOR
THE MIDDLE DISTRICT OF NORTH CAROLINA

MAXWELL KADEL, et al.,)
)
) Plaintiffs,)
) No. 1:19-cv-272-LCB-LPA
) V.)
))
DALE FOLWELL, et al.,)
)
) Defendants.)

)

DEPOSITION
OF
DEE JONES

IN HER INDIVIDUAL CAPACITY
and
30(b)(6) DESIGNEE FOR NC STATE HEALTH PLAN

AUGUST 3, 2021

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PNC PLAZA DOWNTOWN
301 Fayetteville Street, Suite 1700
Raleigh, North Carolina

Reported by: Michelle Maar, RDR, RMR, FCRR

<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES:</p> <p>2 On behalf of the Plaintiffs:</p> <p>3 HARRIS, WILTSHIRE & GRANNIS</p> <p>4 By: Deepika H. Ravi</p> <p>5 1919 M Street NW, 8th Floor</p> <p>6 Washington, DC 20036</p> <p>7 Dravi@hwglaw.com</p> <p>8 HARRIS, WILTSHIRE & GRANNIS</p> <p>9 By: Amy E. Richardson</p> <p>10 1033 Wade Avenue, Suite 100</p> <p>11 Raleigh, NC 27605</p> <p>12 Arichardson@hwglaw.com</p> <p>13 Lambda Legal Defense and Education Fund</p> <p>14 By: Tara Borelli</p> <p>15 730 Peachtree Street NE, Suite 640</p> <p>16 Atlanta, GA 30318</p> <p>17 Tborelli@lambdalegal.org</p> <p>18</p> <p>19 On behalf of Defendants Dale Folwell, Dee Jones, and the NC</p> <p>20 State Health Plan for Teachers and State Employees:</p> <p>21 BELL, DAVIS & PITT</p> <p>22 By: Alan M. Ruley</p> <p>23 Mark A. Jones</p> <p>24 100 N. Cherry Street, Suite 600</p> <p>25 Winton-Salem, NC 27101</p> <p>Aruley@belldavispitt.com</p> <p>Mjones@belldavispitt.com</p> <p>LAW OFFICE OF JOHN G. KNEPPER</p> <p>By: John G. Knepper</p> <p>1720 Carey Avenue, Suite 590</p> <p>Cheyenne, WY 82001</p> <p>John@knepperLLC.com</p> <p>NORTH CAROLINA STATE HEALTH PLAN/NORTH CAROLINA</p> <p>DEPARTMENT OF THE STATE TREASURER</p> <p>By: James Benjamin Garner</p> <p>Kendall M. Bourdon</p> <p>Joel Heimbach</p> <p>3200 Atlantic Avenue</p> <p>Raleigh, NC 27604</p> <p>Ben.garner@nctreasurer.com</p> <p>Kendall.bourdon@nctreasurer.com</p> <p>Joel.heimbach@nctreasurer.com</p>	<p style="text-align: right;">Page 4</p> <p>1 INDEX</p> <p>2 Examination by Ms. Ravi..... 5</p> <p>3 Examination by Mr. Ruley..... 117</p> <p>4 Examination by Mr. McInnes..... 120</p> <p>5 DEPOSITION EXHIBITS</p> <p>6 Plaintiffs' Exhibit No. Description Page</p> <p>7 Exhibit 1 State Health Plan for Teachers and</p> <p>8 State Employees Enhanced 80/20 PPO</p> <p>9 Plan Benefits Booklet</p> <p>10 January 1 - December 31, 2016..... 15</p> <p>11</p> <p>12 Exhibit 2 11-29-16 Segal Consulting Memorandum... 23</p> <p>13</p> <p>14 Exhibit 3 12-8-16 Young E-Mail String..... 29</p> <p>15</p> <p>16 Exhibit 4 8-24-17 Smart E-Mail w/Attachments..... 30</p> <p>17</p> <p>18 Exhibit 5 Objections and Responses of Defendant</p> <p>19 North Carolina State Health Plan for</p> <p>20 Teachers and State Employees to</p> <p>21 Plaintiffs' First Request for</p> <p>22 Admissions, Interrogatories, and</p> <p>23 Requests for Production of Documents</p> <p>24 and Things..... 45</p> <p>25</p> <p>1 Exhibit 6 3-5-17 Murray E-Mail String..... 50</p> <p>2</p> <p>3 Exhibit 7 11-3-17 Murray E-Mail w/Attachments..... 52</p> <p>4</p> <p>5 Exhibit 8 1-23-17f Crabtree E-Mail String w/</p> <p>6 Attachments..... 56</p> <p>7 Exhibit 9 10-25-18 Munk E-Mail/Message from</p> <p>8 Treasurer Folwell..... 67</p> <p>9</p> <p>10 Exhibit 10 Disclosure of Expert Witnesses Who Do</p> <p>11 Not Provide a Written Report Pursuant</p> <p>12 to Fed. R. Civ.P.26(A)(2) by Defendants</p> <p>13 Dale Folwell, Dee Jones, and the North</p> <p>14 Carolina State Health Plan for Teachers</p> <p>15 and State Employees..... 82</p> <p>16</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>
<p style="text-align: right;">Page 3</p> <p>1 APPEARANCES CONTINUED:</p> <p>2 On behalf of Defendant State of North Carolina Department</p> <p>3 of Public Safety:</p> <p>4 NORTH CAROLINA DEPARTMENT OF JUSTICE</p> <p>5 By: Alan McInnes (via teleconference)</p> <p>6 114 W. Edenton Street</p> <p>7 Raleigh, NC 27603</p> <p>8 AmcInnes@ncdoj.gov</p> <p>9</p> <p>10 On behalf of Defendants UNC at Chapel Hill, NC State</p> <p>11 University, and UNC at Greensboro:</p> <p>12 NORTH CAROLINA DEPARTMENT OF JUSTICE</p> <p>13 By: Zachary A. Padget(via teleconference)</p> <p>14 114 W. Edenton Street</p> <p>15 Raleigh, NC 27603</p> <p>16 Zpadget@ncdoj.gov</p> <p>17</p> <p>18</p> <p>19</p> <p>20</p> <p>21</p> <p>22</p> <p>23</p> <p>24</p> <p>25</p>	<p style="text-align: right;">Page 5</p> <p>1 P R O C E E D I N G S</p> <p>2 D E E J O N E S ,</p> <p>3 called as a witness and having been first duly sworn,</p> <p>4 was examined and testified as follows:</p> <p>5 * * *</p> <p>6 MS. RAVI: All right. Before we begin, will</p> <p>7 counsel for the State Health Plan Defendants stipulate that</p> <p>8 Ms. Jones' answers during today's deposition will be</p> <p>9 binding on the State Health Plan?</p> <p>10 MR. JONES: So stipulated.</p> <p>11 MS. RAVI: And will counsel for the State Health</p> <p>12 Plan Defendants stipulate to the authenticity of all</p> <p>13 documents produced by Ms. Jones, the State Health Plan, and</p> <p>14 Mr. Folwell?</p> <p>15 MR. JONES: So stipulated as to authenticity.</p> <p>16 MS. RAVI: Thank you.</p> <p>17</p> <p>18 EXAMINATION</p> <p>19 BY MS. RAVI:</p> <p>20 Q. Good morning, Ms. Jones. My name is Deepika</p> <p>21 Ravi. I represent the plaintiffs in this matter.</p> <p>22 Have you ever had your deposition taken before?</p> <p>23 A. Yes.</p> <p>24 Q. And are you able to hear me okay --</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 6</p> <p>1 Q. -- with this mask?</p> <p>2 A. Yes.</p> <p>3 Q. I would like to go over a few ground rules -- you</p> <p>4 may have heard these before -- so we're on the same page.</p> <p>5 As you know, the court reporter is taking down</p> <p>6 your answers today. So I'll ask that you give verbal</p> <p>7 answers to my questions because she can't record a nod of</p> <p>8 the head, for example. Is that fair?</p> <p>9 A. Yes.</p> <p>10 Q. I'll ask that you try to wait until my questions</p> <p>11 are finished before you start your answer -- again, because</p> <p>12 the court reporter will have trouble transcribing if we</p> <p>13 talk over each other. Is that fair?</p> <p>14 A. Yes.</p> <p>15 Q. I may ask you a question today that you don't</p> <p>16 understand. If that's the case, please tell me. And I'll</p> <p>17 try to rephrase. Will you do that?</p> <p>18 A. Yes.</p> <p>19 Q. And if you don't ask me to rephrase, I'll assume</p> <p>20 that you understood the question. Is that fair?</p> <p>21 A. Yes.</p> <p>22 MR. RULEY: Objection, form.</p> <p>23 BY MS. RAVI:</p> <p>24 Q. We're going to take a few breaks today. If you</p> <p>25 need a break sooner, please let me know. I'll finish my</p>	<p style="text-align: right;">Page 8</p> <p>1 Q. Okay. Anything else?</p> <p>2 A. That's pretty broad.</p> <p>3 Q. What did you do to prepare for your deposition</p> <p>4 today in your role as the Plan's 30(b)(6) designee?</p> <p>5 A. Same.</p> <p>6 Q. Same? Nothing further in preparation?</p> <p>7 A. Nothing further.</p> <p>8 Q. Did you review the topics listed in the</p> <p>9 Plaintiffs' Deposition Notice to the Plan's 30(b)(6)</p> <p>10 Designee?</p> <p>11 A. Yes.</p> <p>12 Q. You did? And did you speak with anyone to</p> <p>13 develop your knowledge on these topics?</p> <p>14 A. No.</p> <p>15 Q. You did not?</p> <p>16 A. Just counsel and the review process.</p> <p>17 Q. All right.</p> <p>18 A. And I would say one more is CVS, there was a</p> <p>19 question that I had for CVS.</p> <p>20 Q. CVS?</p> <p>21 A. Uh-huh.</p> <p>22 Q. Where did you go to school?</p> <p>23 A. I graduated from North Carolina State University.</p> <p>24 Q. And what did you study there?</p> <p>25 A. Accounting and Business Management.</p>
<p style="text-align: right;">Page 7</p> <p>1 line of questioning, and we'll take a break when you need</p> <p>2 one. Okay?</p> <p>3 A. Yes.</p> <p>4 Q. If it happens to be the case that later today you</p> <p>5 remember some additional information or different</p> <p>6 information in response to a question I asked earlier,</p> <p>7 please just let me know. And we can give you the</p> <p>8 opportunity to add to or clarify your answer.</p> <p>9 Will you do that?</p> <p>10 A. Yes.</p> <p>11 Q. All right. Do you understand that you've taken</p> <p>12 on oath to tell the truth today?</p> <p>13 A. Yes.</p> <p>14 Q. And do you understand that that's the same oath</p> <p>15 that you would take if you were testifying in court?</p> <p>16 A. Yes.</p> <p>17 Q. All right. Is there anything inhibiting your</p> <p>18 ability today to give full, honest, and complete answers?</p> <p>19 A. No.</p> <p>20 Q. All right. What did you do to prepare for your</p> <p>21 deposition today?</p> <p>22 A. I reviewed documentation that had been produced</p> <p>23 and worked with counsel on prepping for questions.</p> <p>24 Q. All right. What documents did you review?</p> <p>25 A. The e-mails and general Plan information.</p>	<p style="text-align: right;">Page 9</p> <p>1 Q. Okay. What year did you graduate?</p> <p>2 A. 1986 and 1987.</p> <p>3 Q. Did you attend any grad school?</p> <p>4 A. Yes.</p> <p>5 Q. Where did you go for that?</p> <p>6 A. University of Phoenix Online.</p> <p>7 Q. Okay. And what did you study there?</p> <p>8 A. MBA with an Accounting Concentration.</p> <p>9 Q. What year did you graduate?</p> <p>10 A. 2007.</p> <p>11 Q. Okay. Do you have any other degrees?</p> <p>12 A. No.</p> <p>13 Q. Do you have any other certifications?</p> <p>14 A. No.</p> <p>15 Q. Okay. Where did you work after you received your</p> <p>16 MBA from the University of Phoenix?</p> <p>17 A. I was working at Time Warner Cable at the time.</p> <p>18 Q. What was your role there?</p> <p>19 A. I had numerous roles there, mostly financial,</p> <p>20 back-office operations, and real estate and facilities.</p> <p>21 And I was a controller at one point.</p> <p>22 Q. Okay. Anything else?</p> <p>23 A. No.</p> <p>24 Q. Okay. And what was your title there at Time</p> <p>25 Warner?</p>

<p style="text-align: right;">Page 10</p> <p>1 A. Controller, Senior Director of Support 2 Operations, Senior Director of Real Estate and Facilities. 3 Q. And how long did you work at Time Warner? 4 A. Eleven and a half years. 5 Q. Okay. Where did you work after that? 6 A. Department of Administration. 7 Q. Okay. Was that the North Carolina Department of 8 Administration? 9 A. Yes. 10 Q. What was your title there? 11 A. Chief Operating Officer. 12 Q. Okay. And what were your responsibilities? 13 A. To oversee all the advocacy groups, there were 14 four or five, maybe six advocacy groups, and to oversee the 15 operations, to include real estate, facilities, 16 maintenance, the Eugenics Program, which was a different 17 issue, and other operational activities. 18 Q. What were those other operational activities? 19 A. Let me check my memory here. Procurement -- I'll 20 have to think on that. 21 Q. All right. How long did you work at the North 22 Carolina Department of Administration? 23 A. Eighteen, nineteen months. 24 Q. All right. And where did you work after that? 25 A. North Carolina Department of Health and Human</p>	<p style="text-align: right;">Page 12</p> <p>1 Q. Okay. And what about in your role as COO? 2 A. It started off the operation for Division of 3 Health Benefits. And my primary responsibility was the 4 1115 Waiver production, which was a statutory requirement. 5 Q. All right. 6 A. So building the organization, finding places to 7 sit, things like that. 8 Q. And any other responsibilities as COO? 9 A. No. 10 Q. How long in total did you work at the Department 11 of Health and Human Services for North Carolina? 12 A. Two years. 13 Q. Where did you work after that? 14 A. Department of State Treasurer -- oh, well, sorry, 15 Cansler Collaborative Resources. 16 Q. What was your title there? 17 A. Consultant. 18 Q. And your responsibilities in that role? 19 A. I had a couple of clients, basically assist in 20 whatever projects they wanted me to look into. So I looked 21 into some contracts, evaluated business processes, and made 22 recommendations. 23 Q. Okay. Anything else? 24 A. No. 25 Q. All right. And how long did you work there?</p>
<p style="text-align: right;">Page 11</p> <p>1 Services. 2 Q. Okay. And what was your title there? 3 A. I started off as a Special Assistant to the 4 Secretary, Special Projects. 5 Q. Okay. Any other titles in that job? 6 A. Director of Medicaid Operations, and then COO for 7 the Division of Health Benefits. 8 Q. All right. Any other titles in that job? 9 A. No. 10 Q. Let's start with your role as Special Assistant. 11 What were your responsibilities in that role? 12 A. I was in that role for a short period of time 13 before I went to Medicaid, basically some operational 14 projects, so evaluation of the Controller's Office, to 15 evaluate the organizational structure and the business 16 processes. 17 I also evaluated the use and participation of 18 DocuSign, to see if the organization could implement that. 19 And then there was a postage and mail project that was 20 relatively small. 21 Q. What about in your role as Director of Medicaid 22 Operations, what were your responsibilities there? 23 A. Under my umbrella was Provider Relations, 24 Membership, so the appeals for providers and appeals for 25 membership. That was probably it.</p>	<p style="text-align: right;">Page 13</p> <p>1 A. Seven months. 2 Q. Where did you work after that? 3 A. Department of State Treasurer. 4 Q. Is that where you currently work? 5 A. Yes. 6 Q. What is your current title? 7 A. Executive Administrator or Executive Director, 8 used interchangeably. 9 Q. All right. If I refer to the North Carolina 10 State Health Plan for Teachers and State Employees as the 11 Plan today, will you know what I'm talking about? 12 A. Yes. 13 Q. Apart from the title of Executive Administrator, 14 used interchangeably with Executive Director, have you held 15 any other roles in this current job? 16 A. No. 17 Q. And how long have you held the role of Executive 18 Administrator? 19 A. Four years and one month. 20 Q. Okay. What are your responsibilities in that 21 role? 22 A. At a high level, it's to operationalize the 23 policies as directed by the Treasurer and the Board of 24 Directors or Board of Trustees. 25 Q. Okay. That's at a high level?</p>

<p style="text-align: right;">Page 14</p> <p>1 A. Uh-huh.</p> <p>2 Q. Any other responsibilities at a high level?</p> <p>3 A. No.</p> <p>4 Q. Okay. What does it mean for you to</p> <p>5 operationalize those policies at a more granular level?</p> <p>6 A. So under my responsibility, I have the Plan</p> <p>7 Integration, which is all the technology integration</p> <p>8 between our vendors.</p> <p>9 And then we have a Finance and Data Analytics</p> <p>10 Group. We have a Contracting and Compliance Group,</p> <p>11 Communications. We have Legal.</p> <p>12 And let's see, who am I missing here? I think</p> <p>13 that's it.</p> <p>14 Q. Are you familiar with the operation of the Plan?</p> <p>15 A. Yes.</p> <p>16 Q. Are you familiar with the design of the Plan?</p> <p>17 A. Yes.</p> <p>18 Q. Are you responsible for management of the Plan?</p> <p>19 A. Please define management of the Plan. It's a</p> <p>20 broad term.</p> <p>21 Q. Is it fair to say, would you describe yourself as</p> <p>22 responsible for management of the Plan?</p> <p>23 A. Yes.</p> <p>24 Q. All right. Is the Plan self-funding?</p> <p>25 A. Yes.</p>	<p style="text-align: right;">Page 16</p> <p>1 In the 2016 Plan Year, did the Plan exclude from</p> <p>2 coverage psychological assessment and psychotherapy</p> <p>3 treatment in conjunction with proposed gender</p> <p>4 transformation?</p> <p>5 A. Yes.</p> <p>6 Q. If I refer to these two exclusions from coverage</p> <p>7 today as the exclusions, will you know what I'm talking</p> <p>8 about?</p> <p>9 A. Yes.</p> <p>10 Q. All right. When was this exclusion language</p> <p>11 added to the Plan documents?</p> <p>12 A. As I understand it, back into the '90s in some</p> <p>13 capacity.</p> <p>14 Q. And with the exception of Plan Year 2017, has the</p> <p>15 exclusion been in place continuously since it was</p> <p>16 introduced?</p> <p>17 A. As I understand it, yes.</p> <p>18 Q. And is that correct for the 80/20 PPO Plan?</p> <p>19 A. Yes.</p> <p>20 Q. Is that also correct for the 70/30 PPO Plan?</p> <p>21 A. Yes.</p> <p>22 Q. And for the High-Deductible Health Plan?</p> <p>23 A. Yes.</p> <p>24 Q. Who is eligible to enroll in the State Health</p> <p>25 Plan?</p>
<p style="text-align: right;">Page 15</p> <p>1 Q. And in 2016, did the Plan's benefits coverage</p> <p>2 provide for blanket exclusions for treatment of gender</p> <p>3 dysphoria?</p> <p>4 A. Yes.</p> <p>5 Q. I would like to show you what I'm marking as</p> <p>6 Plaintiffs' Exhibit 1.</p> <p>7 (Exhibit 1 is marked for identification.)</p> <p>8 MS. RAVI: I'll give you a moment to review the</p> <p>9 document. I know it's lengthy.</p> <p>10 MR. RULEY: You've seen it before.</p> <p>11 THE WITNESS: I've seen it once or twice.</p> <p>12 BY MS. RAVI:</p> <p>13 Q. Do you recognize this document?</p> <p>14 A. I do.</p> <p>15 Q. What is this?</p> <p>16 A. It is the 80/20 PPO Plan Benefits Booklet for the</p> <p>17 period January 1 through December 31 of 2016.</p> <p>18 Q. Would you turn to the page marked as PLAN</p> <p>19 DEF2711.</p> <p>20 In the 2016 Plan Year, did the Plan exclude from</p> <p>21 coverage treatment or studies leading to or in connection</p> <p>22 with sex changes or modifications and related care?</p> <p>23 A. Yes.</p> <p>24 Q. If you could turn to the page marked PLAN</p> <p>25 DEF2699.</p>	<p style="text-align: right;">Page 17</p> <p>1 A. State employees, teachers, public school</p> <p>2 teachers, employees of the University Systems of North</p> <p>3 Carolina, employees of the Community College System,</p> <p>4 lawmakers, and former lawmakers, some charter schools, some</p> <p>5 municipalities, and, of course, state agencies.</p> <p>6 Q. Okay. And by that, you mean employees of charter</p> <p>7 schools, municipalities, and state agencies?</p> <p>8 A. Yes.</p> <p>9 Q. Anyone else?</p> <p>10 A. No.</p> <p>11 Q. And what is the plan year?</p> <p>12 A. January 1 through December 31st.</p> <p>13 Q. All right. Can you generally describe the</p> <p>14 process by which the Plan determines benefits for a</p> <p>15 subsequent plan year?</p> <p>16 A. We start with the existing benefits. And unless</p> <p>17 there are any material, or changes that the Plan has</p> <p>18 decided to add, it will be the same booklet or same</p> <p>19 benefits going forward.</p> <p>20 Q. How does the Plan decide whether to make changes</p> <p>21 going forward?</p> <p>22 A. Starting with the overarching goal of providing</p> <p>23 healthcare for its members, and recognizing that we are a</p> <p>24 government plan, and recognizing that we have limited</p> <p>25 funding all provided by taxpayers, we start with that.</p>

<p style="text-align: right;">Page 18</p> <p>1 And then if there are requests for changes, then</p> <p>2 we evaluate them in a different, in a manner that is in</p> <p>3 keeping with those overarching goals.</p> <p>4 Q. Where do those requests for changes come from?</p> <p>5 A. Members of the public. It can come from a board</p> <p>6 member. And it can come from Blue Cross, our TPA. And it</p> <p>7 can come from a staffer.</p> <p>8 Q. Anyone else?</p> <p>9 A. That's generally where it comes from.</p> <p>10 Q. How are those requests evaluated?</p> <p>11 A. Again, it starts with the overarching goal of</p> <p>12 providing public health for the most number, the biggest</p> <p>13 number of people.</p> <p>14 We serve 740,000 plus members. And we don't take</p> <p>15 that responsibility lightly.</p> <p>16 I'm a fiduciary. So when I walk through the</p> <p>17 door, I don't get to pick and choose who I cover. I cover</p> <p>18 everybody. And we evaluate those benefits in that light.</p> <p>19 Q. What criteria are used to evaluate proposed</p> <p>20 benefit changes?</p> <p>21 A. We'll look at the cost of the benefit, what is</p> <p>22 the size of the population that the benefit might cover,</p> <p>23 and what is the efficacy of the benefit, how much, how much</p> <p>24 success is there with the treatment or how much health does</p> <p>25 it improve.</p>	<p style="text-align: right;">Page 20</p> <p>1 is something that we have implemented.</p> <p>2 And, again, it serves the vast majority of the</p> <p>3 membership. And it's, now it's recognized as preventative</p> <p>4 care. And it is, again, proven to save costs on the back</p> <p>5 end.</p> <p>6 Q. How often does the Plan decide what benefits to</p> <p>7 cover for a subsequent plan year?</p> <p>8 A. We make the decision in February of a, of the</p> <p>9 previous year because it takes like 10 months to get it</p> <p>10 implemented for the next plan year.</p> <p>11 Q. So does that occur on an annual basis?</p> <p>12 A. We, we hear from the public every month as to</p> <p>13 potential, whatever they want to say. We have a public</p> <p>14 comment period at every board meeting. So whatever we</p> <p>15 hear, we accumulate. And some things we've heard many</p> <p>16 times. Some things are brand new, so we have to go and</p> <p>17 reevaluate.</p> <p>18 Q. So you said you typically make the decision in</p> <p>19 February for the subsequent plan year?</p> <p>20 A. Yes.</p> <p>21 Q. When does the process begin for the subsequent</p> <p>22 plan year?</p> <p>23 A. We present in November, typically to the board,</p> <p>24 and say, you know, these are the recommendations. But</p> <p>25 that's typical. It doesn't have to be that way.</p>
<p style="text-align: right;">Page 19</p> <p>1 And, again, we don't have a big clinical staff.</p> <p>2 We use a lot of research from Blue Cross or CVS or our</p> <p>3 actuary or our board. And we'll get information from a</p> <p>4 variety of sources. And then we'll propose a</p> <p>5 recommendation.</p> <p>6 Q. Okay. Any other criteria used to evaluate</p> <p>7 proposed changes?</p> <p>8 A. Those are the primary criteria. But if something</p> <p>9 else were to come up and be relevant, then we would use</p> <p>10 that criteria as well.</p> <p>11 Q. Can you think of an example of a time when</p> <p>12 something else has come up and been relevant?</p> <p>13 A. Yes. I think probably the easiest to explain</p> <p>14 would be digital mammography. That was instituted I</p> <p>15 believe in early '17. And digital mammography was not</p> <p>16 covered without a member having to pay out of pocket for it</p> <p>17 prior to that.</p> <p>18 And the efficacy with digital mammography is it</p> <p>19 serves -- women make up more than 50 percent of the Plan's</p> <p>20 population. So, therefore, a benefit that serves that many</p> <p>21 people and has a long-term trajectory of lowering costs</p> <p>22 because of catching breast cancer earlier -- which it does</p> <p>23 because it's targeted at women with dense breast issue and</p> <p>24 it can catch that, that millimeter size much earlier than</p> <p>25 the traditional mammography -- and so that's a benefit that</p>	<p style="text-align: right;">Page 21</p> <p>1 It depends on when we have the information we need</p> <p>2 and what our timeline for different board meetings may be.</p> <p>3 But we have to present it in advance of the</p> <p>4 decisionmaking meeting. So that's, hence, the November time</p> <p>5 frame. And then we typically would have a February board</p> <p>6 meeting for finalization.</p> <p>7 Q. So the February board meeting is the</p> <p>8 decisionmaking meeting?</p> <p>9 A. Yes, typically.</p> <p>10 Q. And what is your role in this process as the</p> <p>11 Plan's Executive Administrator?</p> <p>12 A. My job is to work with the Treasurer to set an</p> <p>13 agenda. And then depending on what we've decided to put on</p> <p>14 the agenda, we prepare the materials for that, for that</p> <p>15 agenda.</p> <p>16 Q. When you say we prepare the materials, who</p> <p>17 prepares those?</p> <p>18 A. My staff.</p> <p>19 Q. How often does the Plan's Board of Trustees meet?</p> <p>20 A. We're required to meet four times per year. But</p> <p>21 oftentimes we meet more than that.</p> <p>22 Q. Does the Plan's Executive Administrator attend</p> <p>23 all board meetings?</p> <p>24 A. I do. Me, personally, I do.</p> <p>25 Q. And in the past, has that also been the case?</p>

<p style="text-align: right;">Page 22</p> <p>1 A. I believe that would be generally the case. But</p> <p>2 I can't say for certain if my predecessors through the</p> <p>3 years have attended all board meetings.</p> <p>4 Q. Are certain coverage exclusions mandated by North</p> <p>5 Carolina law?</p> <p>6 A. There are a couple.</p> <p>7 Q. Okay. In December of 2016, did the Plan's Board</p> <p>8 of Trustees vote to suspend the exclusion for the 2017 Plan</p> <p>9 Year?</p> <p>10 A. Yes.</p> <p>11 Q. And when did the Plan begin those discussions to</p> <p>12 lift that exclusion?</p> <p>13 A. It was August of that year.</p> <p>14 Q. What prompted those discussions to start?</p> <p>15 A. The 1557 Rule that was put out related to ACA in</p> <p>16 May of 2016.</p> <p>17 Q. Okay. Any other factors that prompted that</p> <p>18 discussion to start?</p> <p>19 A. That was the starting point. And then the</p> <p>20 downstream of that was if you, the feeling or understanding</p> <p>21 that if you don't implement it, then you have, you put your</p> <p>22 federal funding at risk, if there is any federal funding.</p> <p>23 Q. Are you familiar with the Segal company?</p> <p>24 A. Yes.</p> <p>25 Q. What is Segal?</p>	<p style="text-align: right;">Page 24</p> <p>1 MS. RAVI: I'll give you a moment to review.</p> <p>2 (Brief pause in the proceeding)</p> <p>3 BY MS. RAVI:</p> <p>4 Q. Have you had a chance to review the document?</p> <p>5 A. Yes.</p> <p>6 Q. Are you familiar with this document?</p> <p>7 A. I am.</p> <p>8 Q. What is this?</p> <p>9 A. This is a memo from Segal to the Plan's previous</p> <p>10 executive administrator as the request for the transgender</p> <p>11 cost estimate.</p> <p>12 Q. What is the date on this memo?</p> <p>13 A. November 29, 2016.</p> <p>14 Q. Who received this memo?</p> <p>15 A. I'm sorry?</p> <p>16 Q. Who received this memo?</p> <p>17 A. My assumption would be Mona Moon because of who</p> <p>18 the memo is written to.</p> <p>19 Q. Did anyone else receive this memo at the Plan?</p> <p>20 A. I can't say.</p> <p>21 Q. Do you know?</p> <p>22 A. I don't know.</p> <p>23 Q. Did anyone outside the Plan receive this memo?</p> <p>24 A. Not according to the memo.</p> <p>25 Q. Do you know if anyone else did outside the Plan?</p>
<p style="text-align: right;">Page 23</p> <p>1 A. They're an actuary and consulting firm.</p> <p>2 Q. And was Segal retained by the Plan?</p> <p>3 A. Yes.</p> <p>4 Q. When was that?</p> <p>5 A. Segal has worked for the Plan for quite a number</p> <p>6 of years. I'm not -- certainly back in 2016 they were.</p> <p>7 And prior to that, I'm not sure how many years.</p> <p>8 Q. Okay. In 2016, did the Plan ask Segal for a</p> <p>9 financial estimate for the annual cost to the Plan of</p> <p>10 covering treatment and services for gender dysphoria</p> <p>11 beginning with Plan Year 2017?</p> <p>12 A. Yes.</p> <p>13 Q. And to whom did the Plan make that request at</p> <p>14 Segal?</p> <p>15 A. It would have been to the leading, the</p> <p>16 management, Segal management.</p> <p>17 Q. Do you know who was in Segal management at the</p> <p>18 time?</p> <p>19 A. I do not. Currently, it's Stu Wall. He might</p> <p>20 have been the person back then as well.</p> <p>21 Q. When did the Plan make that request of Segal?</p> <p>22 A. I would imagine in June or July of 2016.</p> <p>23 Q. I'm handing you what has been marked as</p> <p>24 Plaintiffs' Exhibit 2.</p> <p>25 (Exhibit 2 is marked for identification.)</p>	<p style="text-align: right;">Page 25</p> <p>1 A. No.</p> <p>2 Q. Was anyone else at the Plan asked to analyze</p> <p>3 Segal's cost estimate in this memo?</p> <p>4 A. The Plan had a financial analyst at the time.</p> <p>5 And he would have worked with Segal to try to understand</p> <p>6 their estimate.</p> <p>7 Q. Who was that person?</p> <p>8 A. Mark Collins.</p> <p>9 Q. Would anyone else have worked with Segal to try</p> <p>10 to understand this estimate?</p> <p>11 A. Certainly Mona Moon would have, and I assume</p> <p>12 Lotta Crabtree, as they worked on this project through that</p> <p>13 summertime.</p> <p>14 Q. Anyone else?</p> <p>15 A. I don't know.</p> <p>16 Q. To your knowledge, did anyone at the Plan analyze</p> <p>17 Segal's cost estimate?</p> <p>18 A. Rephrase the question.</p> <p>19 Q. Do you know if anyone else at the Plan in 2016</p> <p>20 analyzed the estimate provided by Segal?</p> <p>21 MR. RULEY: Objection, form.</p> <p>22 THE WITNESS: I believe I said earlier Mark</p> <p>23 Collins was part of the analysts, the analysis of this</p> <p>24 discussion.</p> <p>25 ////</p>

<p style="text-align: right;">Page 26</p> <p>1 BY MS. RAVI:</p> <p>2 Q. All right. Anyone else?</p> <p>3 A. I don't know.</p> <p>4 Q. I'm on the first page of the memo, which is</p> <p>5 marked PLAN DEF6964.</p> <p>6 And under the second paragraph, the memo states</p> <p>7 that past experience from various counties that have</p> <p>8 provided coverage long enough to have data to review have</p> <p>9 shown the prior estimates to be overstated.</p> <p>10 Is that right?</p> <p>11 A. I'm sorry -- where are you?</p> <p>12 Q. The bottom of the second paragraph.</p> <p>13 A. Oh. Okay.</p> <p>14 Q. Do you see that language there?</p> <p>15 A. I do.</p> <p>16 Q. Okay. What were those prior estimates?</p> <p>17 A. I do not know.</p> <p>18 Q. Did the Plan ask Segal about this statement?</p> <p>19 A. I do not know.</p> <p>20 Q. Did the Plan challenge Segal's statement?</p> <p>21 A. I don't know.</p> <p>22 Q. All right. I'm under Key Assumptions now. And I</p> <p>23 am in the second paragraph, Prevalence, under Key</p> <p>24 Assumptions.</p> <p>25 The memo states that approximately .58 percent of</p>	<p style="text-align: right;">Page 28</p> <p>1 Plan members whom Segal expects to use what it refers to as</p> <p>2 transgender benefits?</p> <p>3 A. Yes.</p> <p>4 Q. Okay. Did the Plan challenge Segal's estimate of</p> <p>5 the number of Plan members who Segal expected to use</p> <p>6 transgender benefits?</p> <p>7 A. I don't believe so.</p> <p>8 Q. And I'm now under Financial Impact on the same</p> <p>9 page. The memo states we have estimated the annual cost to</p> <p>10 range from 350,000 to 850,000.</p> <p>11 Is that right?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. So looking now at the Total Using Benefits</p> <p>14 Cost in this chart, is it correct that the cost range</p> <p>15 provided is 344,000 dollars, I'm sorry, 344,013 dollars to</p> <p>16 862,292 dollars?</p> <p>17 A. Yes.</p> <p>18 Q. Does PMPM refer to per member per month?</p> <p>19 A. Yes.</p> <p>20 Q. So the total cost per member per month is between</p> <p>21 6 cents and 15 cents. Is that right?</p> <p>22 A. Yes.</p> <p>23 Q. And the memo states based on approximately 3.2</p> <p>24 billion dollars of premiums, the cost for the North</p> <p>25 Carolina State Health Plan is estimated to be .011 percent</p>
<p style="text-align: right;">Page 27</p> <p>1 adults in the United States self-identify as transgender.</p> <p>2 Is that correct?</p> <p>3 A. That's what it says.</p> <p>4 Q. And in the next paragraph, it states a prevalence</p> <p>5 range of .35 percent to 1.03 percent for North Carolina.</p> <p>6 Is that right?</p> <p>7 A. Yes.</p> <p>8 Q. Is that Segal's estimated prevalence of adults in</p> <p>9 North Carolina who identify as transgender?</p> <p>10 A. According to their statement there, yes.</p> <p>11 Q. And it states at the very bottom of this page, of</p> <p>12 those who identify as transgender, between .1 percent and</p> <p>13 .5 percent have taken some steps to transition from one</p> <p>14 gender to another.</p> <p>15 Is that right?</p> <p>16 A. Based on the study from 2007, yes.</p> <p>17 Q. Turning over to the next page, PLAN DEF6965, so</p> <p>18 it states we would expect 8 to 24 members to use</p> <p>19 transgender benefits.</p> <p>20 Is that right?</p> <p>21 MR. RULEY: Sorry, where are you?</p> <p>22 MS. RAVI: The top of the page.</p> <p>23 THE WITNESS: Yes.</p> <p>24 BY MS. RAVI:</p> <p>25 Q. Okay. Is that Segal's estimate for the number of</p>	<p style="text-align: right;">Page 29</p> <p>1 to .027 percent of premium.</p> <p>2 Is that right?</p> <p>3 A. Yes.</p> <p>4 Q. Did the Plan assess how coverage of gender</p> <p>5 dysphoria treatment would affect premium amounts?</p> <p>6 A. Rephrase.</p> <p>7 Q. Did the Plan ask Segal to clarify or provide</p> <p>8 additional detail on this estimate?</p> <p>9 A. I believe what we have is what we have.</p> <p>10 Q. I'm handing you what has been marked as</p> <p>11 Plaintiffs' Exhibit 3.</p> <p>12 (Exhibit 3 is marked for identification.)</p> <p>13 MS. RAVI: And I'll give you a moment to review.</p> <p>14 (Brief pause in the proceeding)</p> <p>15 THE WITNESS: Okay.</p> <p>16 BY MS. RAVI:</p> <p>17 Q. Have you had a chance to review it?</p> <p>18 A. Yes.</p> <p>19 Q. Are you familiar with this document?</p> <p>20 A. Yes.</p> <p>21 Q. What is this?</p> <p>22 A. It's a memo from someone at WUNC asking about the</p> <p>23 cost of gender dysphoria treatments. And it talks about</p> <p>24 Segal's report.</p> <p>25 And then my predecessor explained that not</p>

<p style="text-align: right;">Page 30</p> <p>1 covering would put at risk substantial funding, federal</p> <p>2 funding that the Plan receives, stated here between 15 and</p> <p>3 20 million dollars in federal retiree drug subsidy.</p> <p>4 Q. I'm on the page marked as PLAN DEF29555, do you</p> <p>5 have that in front of you?</p> <p>6 A. Yes.</p> <p>7 Q. In the last paragraph, Ms. Moon states that the</p> <p>8 estimated 350,000 to 850,000 cost associated with the</p> <p>9 benefit change is approximately .011 to .027 percent of the</p> <p>10 Plan's total premiums.</p> <p>11 Is that right?</p> <p>12 A. That is correct.</p> <p>13 Q. And based on this, she estimates the premiums</p> <p>14 would increase by less than .03 percent.</p> <p>15 Is that right?</p> <p>16 A. Yes.</p> <p>17 Q. Did the Plan challenge Ms. Moon's statement here?</p> <p>18 A. I do not believe so.</p> <p>19 Q. Okay. Did anyone at the Plan further discuss</p> <p>20 this statement with Ms. Moon?</p> <p>21 A. No.</p> <p>22 Q. All right. I'm handing you what has been marked</p> <p>23 as Plaintiffs' Exhibit 4.</p> <p>24 (Exhibit 4 is marked for identification.)</p> <p>25 MS. RAVI: I'll give you a moment to review.</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. Why did she send them to you?</p> <p>2 A. She was at the Plan in December of 2016 and was</p> <p>3 aware of the decision at the time and knew that it was</p> <p>4 going to be, that the exclusion removal was going to sunset</p> <p>5 in December or January 1, 2018. And she wanted to make me</p> <p>6 aware of it, as I had been at the Plan for just over a</p> <p>7 couple of months at that time.</p> <p>8 Q. Who is David Cozart?</p> <p>9 A. He's a former Plan staffer.</p> <p>10 Q. And Ms. Caroline Smart, at the time, was the</p> <p>11 Interim Senior Director of Plan Integration. Is that</p> <p>12 right?</p> <p>13 A. She is now the Senior Director of Plan</p> <p>14 Integration.</p> <p>15 Q. Let's turn to the pages marked PLAN DEF6966 to</p> <p>16 6989. Do you recognize this document?</p> <p>17 A. I do.</p> <p>18 Q. What is this?</p> <p>19 A. This is a PowerPoint presentation that would have</p> <p>20 been presented at the December 2, 2016 Board of Trustees</p> <p>21 meeting.</p> <p>22 Q. Who prepared this presentation deck?</p> <p>23 A. Plan leadership.</p> <p>24 Q. Who are they?</p> <p>25 A. At the time, I would imagine Caroline Smart, Beth</p>
<p style="text-align: right;">Page 31</p> <p>1 (Brief pause in the proceeding)</p> <p>2 BY MS. RAVI:</p> <p>3 Q. Have you had a chance to review it?</p> <p>4 A. I have.</p> <p>5 Q. Are you familiar with this document?</p> <p>6 A. Yes.</p> <p>7 Q. What is this?</p> <p>8 A. This is a memo to myself and a couple of my</p> <p>9 direct reports providing notification that there was a</p> <p>10 board meeting in December of 2016 where the exclusion was</p> <p>11 removed. And it was basically for one year.</p> <p>12 And so we needed to evaluate for the upcoming</p> <p>13 2017, the 2018 Plan Year. And it included some basic</p> <p>14 materials.</p> <p>15 Q. And what are those basic materials that are</p> <p>16 included?</p> <p>17 A. The Segal consulting memo that we just reviewed,</p> <p>18 the presentation from the board meeting in December of</p> <p>19 2016, the Blue Cross Corporate Medical Policy for Gender</p> <p>20 Confirmation Surgery and Hormone Therapy, the Minutes from</p> <p>21 the December 1, 2016 Board of Trustees meeting. That</p> <p>22 appears to be all.</p> <p>23 Q. All right. Did you request that Ms. Smart send</p> <p>24 you these materials in August of 2017?</p> <p>25 A. I did not.</p>	<p style="text-align: right;">Page 33</p> <p>1 Horner, Lotta Crabtree. Mona Moon would have had</p> <p>2 substantial influence on this. Mark Collins probably had</p> <p>3 substantial influence on this document.</p> <p>4 Q. Anyone else?</p> <p>5 A. Beyond that, I don't know.</p> <p>6 Q. And who received a copy of this presentation deck</p> <p>7 at the time, around the December 2016 board meeting?</p> <p>8 A. At the time, the board members would have</p> <p>9 received a copy of it.</p> <p>10 Q. Anyone else?</p> <p>11 A. Plan staff.</p> <p>12 Q. Who in Plan staff would have gotten a copy?</p> <p>13 A. The leaders. Beyond that, I wouldn't know.</p> <p>14 Q. And when you say the leaders, the individuals you</p> <p>15 just mentioned as having influence over this document?</p> <p>16 A. Yes.</p> <p>17 Q. Did the Plan's Board of Trustees meet on December</p> <p>18 1, 2016?</p> <p>19 A. The 1st and 2nd.</p> <p>20 Q. All right. And was the Plan's Executive</p> <p>21 Administrator at the time present at those board meetings?</p> <p>22 A. I don't know for sure. But, yes, I believe she</p> <p>23 was.</p> <p>24 Q. Could you flip to the end, which is PLAN DEF6988.</p> <p>25 Is it correct that Plan staff recommended removing</p>

<p style="text-align: right;">Page 34</p> <p>1 the blanket exclusions for coverage of gender dysphoria</p> <p>2 treatment?</p> <p>3 A. Yes, for the Plan Year 2017.</p> <p>4 Q. And is it correct that Plan staff stated that</p> <p>5 removing those blanket exclusions would result in provision</p> <p>6 of medically necessary services for treatment of gender</p> <p>7 dysphoria?</p> <p>8 A. That's what the document says.</p> <p>9 Q. Is that what Plan staff recommended?</p> <p>10 A. Yes.</p> <p>11 Q. Did Plan staff ever retract that position</p> <p>12 regarding medical necessity?</p> <p>13 A. Not that I'm aware of.</p> <p>14 Q. If you could flip back to Page PLAN DEF6968.</p> <p>15 This slide sets forth the DSM-5 criteria for a</p> <p>16 diagnosis of Gender Dysphoria.</p> <p>17 Is that right?</p> <p>18 A. Yes.</p> <p>19 Q. Is the Plan familiar with the DSM-5?</p> <p>20 A. Yes.</p> <p>21 Q. Is it right that Plan staff relied on the DSM-5</p> <p>22 in making its recommendation to the Board of Trustees?</p> <p>23 A. It appears that was what was used for this</p> <p>24 presentation.</p> <p>25 Q. Does the Plan challenge the DSM-5 criteria for a</p>	<p style="text-align: right;">Page 36</p> <p>1 A. Yes.</p> <p>2 Q. And turning to the next page, PLAN DEF6970, does</p> <p>3 this set forth the WPATH Standards of Care criteria for</p> <p>4 gender confirmation surgery?</p> <p>5 A. Yes.</p> <p>6 Q. Is the Plan familiar with the WPATH Standards of</p> <p>7 Care?</p> <p>8 A. Yes.</p> <p>9 Q. And is it correct that the Plan staff relied on</p> <p>10 the WPATH Standards of Care in making its recommendation to</p> <p>11 lift the exclusion?</p> <p>12 A. Yes.</p> <p>13 Q. Does the Plan challenge the WPATH Standards of</p> <p>14 Care?</p> <p>15 A. No.</p> <p>16 Q. And today does the Plan have a position on the</p> <p>17 validity of the WPATH Standards of Care?</p> <p>18 A. No.</p> <p>19 Q. Has the Plan ever withdrawn its reliance on the</p> <p>20 WPATH Standards of Care?</p> <p>21 A. No.</p> <p>22 Q. If you could turn to the next slide, which is</p> <p>23 PLAN DEF6971. This slide describes the American Medical</p> <p>24 Association Resolution 122.</p> <p>25 Is that right?</p>
<p style="text-align: right;">Page 35</p> <p>1 diagnosis of Gender Dysphoria?</p> <p>2 A. It doesn't appear so.</p> <p>3 Q. It doesn't appear so from this document?</p> <p>4 A. From this document, yes.</p> <p>5 Q. Today, does the Plan challenge those criteria?</p> <p>6 A. No.</p> <p>7 Q. Does the Plan today have a position on the</p> <p>8 validity of the DSM-5?</p> <p>9 A. No.</p> <p>10 Q. Has the Plan ever withdrawn its reliance on the</p> <p>11 DSM-5 set forth in this presentation?</p> <p>12 A. No.</p> <p>13 Q. If you could turn to the next page, which is PLAN</p> <p>14 DEF6969.</p> <p>15 This slide references the World Professional</p> <p>16 Association for Transgender Health Standards of Care for</p> <p>17 Medical Treatment of Gender Identification Disorder.</p> <p>18 Is that right?</p> <p>19 A. That is correct.</p> <p>20 Q. And if I refer to this as the WPATH Standards of</p> <p>21 Care, will you know what I'm talking about?</p> <p>22 A. I will.</p> <p>23 Q. So this slide sets forth the WPATH Standards of</p> <p>24 Care criteria for gender confirmation surgery.</p> <p>25 Is that right?</p>	<p style="text-align: right;">Page 37</p> <p>1 A. Yes.</p> <p>2 Q. And the slide states that the AMA Resolution was</p> <p>3 issued in 2008.</p> <p>4 A. Yes.</p> <p>5 Q. And it states that the AMA Resolution describes</p> <p>6 the WPATH Standards of Care, elements of care for</p> <p>7 transgender people as a medical necessity.</p> <p>8 Is that right?</p> <p>9 A. Yes.</p> <p>10 Q. Okay. Is the Plan familiar with AMA Resolution</p> <p>11 122?</p> <p>12 A. To the extent it's listed here for gender</p> <p>13 dysphoria, yes.</p> <p>14 Q. Is the Plan otherwise familiar with the AMA</p> <p>15 Resolution 122 outside of this presentation?</p> <p>16 A. Not that I'm aware of.</p> <p>17 Q. And Plan staff relied on AMA Resolution 122 in</p> <p>18 making its recommendation to lift the exclusion.</p> <p>19 Is that right?</p> <p>20 A. It's clear that it was part of a recommendation.</p> <p>21 Q. Did they rely on it in making their</p> <p>22 recommendation?</p> <p>23 A. I can't say for sure.</p> <p>24 Q. And it's cited in this presentation to the board?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 38</p> <p>1 Q. Does the Plan challenge AMA Resolution 122?</p> <p>2 A. No.</p> <p>3 Q. Does the Plan have a position on its validity?</p> <p>4 A. No.</p> <p>5 Q. And has the Plan ever withdrawn its reliance on</p> <p>6 AMA Resolution 122?</p> <p>7 A. No.</p> <p>8 Q. If you could turn to the page marked PLAN</p> <p>9 DEF6985.</p> <p>10 Does this slide accurately describe the State</p> <p>11 Health Plan's blanket exclusions for coverage of gender</p> <p>12 dysphoria in effect for the 2016 Plan Year?</p> <p>13 A. Yes.</p> <p>14 Q. And if you turn to the next slide, this slide</p> <p>15 reflects the Segal company's estimate that adding coverage</p> <p>16 for gender dysphoria will cost approximately 350,000 to</p> <p>17 850,000 annually.</p> <p>18 Is that right?</p> <p>19 A. Yes.</p> <p>20 MS. RAVI: Can we go off the record?</p> <p>21 (Off the record)</p> <p>22 MS. RAVI: Back on the record.</p> <p>23 BY MS. RAVI:</p> <p>24 Q. Other than your attorney, did you speak with</p> <p>25 anyone during the break?</p>	<p style="text-align: right;">Page 40</p> <p>1 2016 Financial Report followed a pattern similar to prior</p> <p>2 reports, with the ending cash balance 220 million higher</p> <p>3 than the budgeted amount?</p> <p>4 A. Yes.</p> <p>5 Q. Did he report that Plan expenses were below</p> <p>6 projection and that income was higher than expected?</p> <p>7 A. Yes.</p> <p>8 Q. And did he report that, in summary, the Plan's</p> <p>9 financials are currently outperforming the budget?</p> <p>10 A. Yes.</p> <p>11 Q. If you could turn to document PLAN DEF12814 to</p> <p>12 12822. Do you recognize this document?</p> <p>13 A. Yes.</p> <p>14 Q. What is this?</p> <p>15 A. It's the Meeting Minutes from the Board of</p> <p>16 Trustees meeting on December 2, 2016.</p> <p>17 Q. And I'm now on Page PLAN DEF12815, under the</p> <p>18 heading Gender Dysphoria Condition and Treatment.</p> <p>19 Who is Patti Forest?</p> <p>20 A. She was the Plan's Medical Director.</p> <p>21 Q. And did she present to the board at its December</p> <p>22 2, 2016 meeting?</p> <p>23 A. Yes.</p> <p>24 Q. Did Dr. Forest report that AMA Resolution 122</p> <p>25 issued in 2008 removes the financial barriers of care for</p>
<p style="text-align: right;">Page 39</p> <p>1 A. No.</p> <p>2 Q. We're still on Exhibit Number 4.</p> <p>3 If you could turn to the pages marked PLAN</p> <p>4 DEF12810 through 12813.</p> <p>5 Do you recognize this document?</p> <p>6 A. Yes.</p> <p>7 Q. What is it?</p> <p>8 A. This is the Minutes from the Board of Trustees</p> <p>9 meeting on December 1, 2016.</p> <p>10 Q. About the middle of the page, DEF12810, where it</p> <p>11 says State Health Plan and Department of State Treasurer</p> <p>12 Staff, does that list other attendees at this meaning?</p> <p>13 A. Yes.</p> <p>14 Q. Who is Mark Collins?</p> <p>15 A. The Plan's Financial Analyst at the time.</p> <p>16 Q. Did Mr. Collins present to the board at its</p> <p>17 December 1st meeting?</p> <p>18 A. He normally does -- yes, he did.</p> <p>19 Q. And I'm now on PLAN DEF12811, under October 2016</p> <p>20 Financial Report.</p> <p>21 Did Mr. Collins report to the board that a higher</p> <p>22 than expected membership increase accounted for an increase</p> <p>23 in Plan revenue?</p> <p>24 A. Yes.</p> <p>25 Q. And did he report to the board that the October</p>	<p style="text-align: right;">Page 41</p> <p>1 transgender patients?</p> <p>2 A. Yes.</p> <p>3 Q. And did she report to the board that the American</p> <p>4 College of Physicians and American College of Obstetricians</p> <p>5 and Gynecologists Committee have also endorsed coverage for</p> <p>6 transgender healthcare services?</p> <p>7 A. Yes.</p> <p>8 Q. I'm now at the bottom of PLAN DEF12815 to 12816,</p> <p>9 under Proposed Benefit Change.</p> <p>10 Who is Lotta Crabtree?</p> <p>11 A. She was the Plan's Deputy Executive Administrator</p> <p>12 and Legal Counsel at the time.</p> <p>13 Q. Did Ms. Crabtree present to the board at its</p> <p>14 December 2nd meeting?</p> <p>15 A. Yes.</p> <p>16 Q. Did she report that the Plan's current benefit</p> <p>17 provides blanket exclusions for the treatment of gender</p> <p>18 dysphoria, including treatment or studies regarding sex</p> <p>19 changes or modifications, psychological assessments, and</p> <p>20 psychotherapy treatment?</p> <p>21 A. Where are you?</p> <p>22 Q. If you turn to PLAN DEF12816, at the top of the</p> <p>23 page.</p> <p>24 A. Can you repeat the question?</p> <p>25 Q. Yes. Did Ms. Crabtree report that the Plan's</p>

<p style="text-align: right;">Page 42</p> <p>1 current benefit provides blanket exclusions for the</p> <p>2 treatment of gender dysphoria, including treatment or</p> <p>3 studies regarding sex changes or modifications,</p> <p>4 psychological assessments, and psychotherapy treatment?</p> <p>5 A. Yes.</p> <p>6 Q. And did she report that the annual cost of</p> <p>7 coverage provided by the Plan's actuarial consultant is</p> <p>8 approximately 350,000 to 850,000?</p> <p>9 A. Yes.</p> <p>10 Q. And is that the Segal company's estimate?</p> <p>11 A. Yes.</p> <p>12 Q. Did she report that the Plan would adopt the Blue</p> <p>13 Cross Blue Shield of North Carolina's medical policy, which</p> <p>14 includes the requirement in support of medical necessity?</p> <p>15 A. She did.</p> <p>16 Q. And did Ms. Crabtree report that the Plan</p> <p>17 recommend approval of coverage for the treatment of gender</p> <p>18 dysphoria by removing the blanket exclusions resulting in</p> <p>19 the provision of medically necessary services for the</p> <p>20 treatment of gender dysphoria?</p> <p>21 A. Yes.</p> <p>22 Q. How did the board act on the Plan's</p> <p>23 recommendation to approve coverage for treatment of gender</p> <p>24 dysphoria?</p> <p>25 A. The board removed the exclusion for one year, for</p>	<p style="text-align: right;">Page 44</p> <p>1 A. Yes.</p> <p>2 Q. Was this resolution the reason that the exclusion</p> <p>3 was suspended for the 2017 Plan Year only?</p> <p>4 A. Can you repeat, rephrase your question?</p> <p>5 Q. Was this resolution the reason that the exclusion</p> <p>6 was lifted for only the 2017 Plan Year?</p> <p>7 A. Yes. The board voted on this resolution</p> <p>8 language.</p> <p>9 Q. Okay. And what was the outcome of that vote?</p> <p>10 A. The outcome was in favor of removing the</p> <p>11 exclusion for the Plan Year 2017.</p> <p>12 Q. And following this recommendation from Plan</p> <p>13 staff, were Plan staff ever subsequently asked to make a</p> <p>14 recommendation as to coverage for treatment of gender</p> <p>15 dysphoria?</p> <p>16 A. No.</p> <p>17 Q. Why not?</p> <p>18 A. Staff did not -- they notified me that it was</p> <p>19 supposed to come up, right, per the previous document. And</p> <p>20 that was their reminder that we should look at it for 2018.</p> <p>21 Q. Did Plan staff ever make another recommendation</p> <p>22 as to coverage for treatment of gender dysphoria?</p> <p>23 A. No.</p> <p>24 Q. And did Plan staff ever retract their</p> <p>25 recommendation reflected in this Crabtree presentation at</p>
<p style="text-align: right;">Page 43</p> <p>1 Plan Year 2017.</p> <p>2 Q. Who is Dr. Paul Cunningham?</p> <p>3 A. He's a former board member and physician.</p> <p>4 Q. Did Dr. Cunningham move to recommend that the</p> <p>5 State Health Plan remove the blanket exclusions?</p> <p>6 A. Yes.</p> <p>7 Q. And who is Dr. Aaron McKethan?</p> <p>8 A. He is an actuary, a data-analytics person, a</p> <p>9 former board member.</p> <p>10 Q. Did Dr. McKethan offer a resolution to Dr.</p> <p>11 Cunningham's motion?</p> <p>12 A. Yes.</p> <p>13 Q. I'm now on PLAN DEF12817, the second full</p> <p>14 paragraph.</p> <p>15 Does this paragraph accurately reflect Dr.</p> <p>16 McKethan's proposed resolution, the paragraph starting Dr.</p> <p>17 McKethan offered a resolution to?</p> <p>18 A. Sorry, what was the question?</p> <p>19 Q. Does this text here -- starting with paragraph</p> <p>20 Dr. McKethan offered a resolution to -- does this</p> <p>21 accurately reflect the text of that proposed resolution?</p> <p>22 A. Yes.</p> <p>23 Q. And does this accurately reflect the reason that</p> <p>24 Dr. McKethan requested that the exclusion be suspended for</p> <p>25 Plan Year 2017 only?</p>	<p style="text-align: right;">Page 45</p> <p>1 the December 2nd board meeting?</p> <p>2 A. No.</p> <p>3 Q. How much did the Plan spend in 2017 as a result</p> <p>4 of lifting the exclusion?</p> <p>5 A. If I'm not mistaken, it was around 400,000</p> <p>6 dollars.</p> <p>7 Q. Okay. I'm handing you what has been marked as</p> <p>8 Exhibit 5.</p> <p>9 (Exhibit 5 is marked for identification.)</p> <p>10 MS. RAVI: And I'll give you a moment to review.</p> <p>11 (Brief pause in the proceeding)</p> <p>12 BY MS. RAVI:</p> <p>13 Q. Have you had a chance to review?</p> <p>14 A. A part of it, yeah.</p> <p>15 Q. Do you recognize this document?</p> <p>16 A. I do.</p> <p>17 Q. What is this?</p> <p>18 A. It's the Objections and Responses of Defendant</p> <p>19 North Carolina State Health Plan for Teachers and State</p> <p>20 Employees to Plaintiffs' First Request for Admissions,</p> <p>21 Interrogatories, and Requests for Production of Documents</p> <p>22 and Things.</p> <p>23 Q. And did you verify the answers to the Plaintiffs'</p> <p>24 First Set of Interrogatories to the State Health Plan?</p> <p>25 A. I did.</p>

<p style="text-align: right;">Page 46</p> <p>1 Q. Turn to Page 15 of the document.</p> <p>2 Is that your signature there under the</p> <p>3 verification?</p> <p>4 A. It is.</p> <p>5 Q. Please turn to Pages 4 to 5. I'm looking at the</p> <p>6 Request for Admission Number 6 and its Response.</p> <p>7 So this request asks whether the cost of gender</p> <p>8 confirming healthcare for Calendar Year 2017 did not exceed</p> <p>9 the cost estimate provided by Segal Consulting in its</p> <p>10 November 29, 2016 memo.</p> <p>11 Is that correct?</p> <p>12 A. That's correct.</p> <p>13 Q. And the Plan states in response that it's unclear</p> <p>14 what the Segal cost estimates refer to.</p> <p>15 Is that right?</p> <p>16 A. That is correct.</p> <p>17 Q. And it refers to, the response refers to payment</p> <p>18 requests from medical providers, the allowed payments</p> <p>19 authorized after discounts negotiated with medical</p> <p>20 providers, or the amounts paid by the State Health Plan</p> <p>21 after other deductibles and co-insurance payments are</p> <p>22 applied.</p> <p>23 Is that right?</p> <p>24 A. Yes.</p> <p>25 Q. I'm looking now at Page 5, the second full</p>	<p style="text-align: right;">Page 48</p> <p>1 A. The discount that Blue Cross provides.</p> <p>2 Q. So after discounts negotiated, the amount in</p> <p>3 allowed expenses was 504,406.04?</p> <p>4 A. Yes.</p> <p>5 Q. And that was for treatment that would have been</p> <p>6 excluded had the coverage exclusion remained in effect?</p> <p>7 A. Yes.</p> <p>8 Q. And after reductions, I'm sorry, after Plan</p> <p>9 participants or other insureds paid their portion, the Plan</p> <p>10 paid 404,609.26.</p> <p>11 Is that right?</p> <p>12 A. That is correct.</p> <p>13 Q. All right. And other Plan participants and other</p> <p>14 insurers paid the balance of that difference between</p> <p>15 404,000 and 504,000?</p> <p>16 A. Yes.</p> <p>17 Q. To the Plan's knowledge, other than this amount</p> <p>18 of 404,609.26, did it incur any other costs for coverage of</p> <p>19 treatment of gender dysphoria in 2017?</p> <p>20 A. I think that could be difficult to assess because</p> <p>21 there were some coverages that have been covered all along,</p> <p>22 like counseling, that may or may not have been incorporated</p> <p>23 into these numbers, which could have been, so that would</p> <p>24 inflate the cost if they were, you know, using diagnosis</p> <p>25 codes, et cetera. But counseling has generally not been</p>
<p style="text-align: right;">Page 47</p> <p>1 paragraph.</p> <p>2 As to payment requests from medical providers, the</p> <p>3 Plan states that information provided from Blue Cross Blue</p> <p>4 Shield of North Carolina for the 2017 Plan Year indicates</p> <p>5 that 784,923.28 was billed to the State Health Plan for</p> <p>6 medical treatment that Blue Cross Blue Shield indicated</p> <p>7 would have been excluded had the coverage exclusion remained</p> <p>8 in effect.</p> <p>9 Is that right?</p> <p>10 A. Yes.</p> <p>11 Q. So is it correct that in Plan Year 2017, the Plan</p> <p>12 received this amount, 784,923.28, in payment requests from</p> <p>13 medical providers?</p> <p>14 A. No.</p> <p>15 Q. What does this statement mean?</p> <p>16 A. It means the provider charges were 785,000</p> <p>17 dollars.</p> <p>18 Q. And how do provider charges differ from provider</p> <p>19 requests?</p> <p>20 A. Provider charges have no basis particularly</p> <p>21 because they're always well overstated.</p> <p>22 The Plan incurred 504,000 dollars, rounded, in</p> <p>23 allowed expenses.</p> <p>24 Q. What is the difference between allowed expenses</p> <p>25 and the amount listed above, 784,000?</p>	<p style="text-align: right;">Page 49</p> <p>1 prohibited.</p> <p>2 Q. As a result of lifting the exclusion for the 2017</p> <p>3 Plan Year, are there any other costs that were incurred</p> <p>4 that the Plan is aware of?</p> <p>5 A. No.</p> <p>6 Q. Okay.</p> <p>7 A. Other than what I just mentioned.</p> <p>8 Q. Was counseling covered before the Plan lifted the</p> <p>9 exclusion for the 2017 Plan Year?</p> <p>10 A. Yes.</p> <p>11 Q. So as a result of lifting the exclusion for the</p> <p>12 2017 Plan Year, was approximately 404,000 dollars what the</p> <p>13 Plan incurred in costs as a result of lifting that</p> <p>14 exclusion?</p> <p>15 A. That which was specifically designated for gender</p> <p>16 dysphoria, yes. But there were counseling, probably there</p> <p>17 were counseling charges that were not listed as gender</p> <p>18 dysphoria. So there could have been a higher cost.</p> <p>19 Q. Were those counseling charges covered prior to</p> <p>20 the lifting of the exclusion?</p> <p>21 A. Yes.</p> <p>22 Q. Okay.</p> <p>23 A. And they are still covered today.</p> <p>24 Q. Was Blue Cross Blue Shield of North Carolina</p> <p>25 tracking gender dysphoria claim activity in 2017?</p>

<p style="text-align: right;">Page 50</p> <p>1 A. They removed the exclusion at our request. And</p> <p>2 then it depends on how providers coded their claims.</p> <p>3 Q. And was Blue Cross Blue Shield of North Carolina</p> <p>4 tracking that claim activity?</p> <p>5 A. Through coding, yes.</p> <p>6 Q. Was Blue Cross Blue Shield of North Carolina</p> <p>7 tracking gender dysphoria call activity?</p> <p>8 A. Call activity? Please describe or --</p> <p>9 Q. Is the Plan aware of what call activity is?</p> <p>10 A. You're talking about to their Customer Call</p> <p>11 Center?</p> <p>12 Q. Correct.</p> <p>13 A. Yeah -- I don't know.</p> <p>14 Q. You don't know if they were tracking that?</p> <p>15 A. No. I don't, we don't tell them how to do their</p> <p>16 business.</p> <p>17 Q. I'm handing you what I've marked as Plaintiffs'</p> <p>18 Exhibit 6.</p> <p>19 (Exhibit 6 is marked for identification.)</p> <p>20 MS. RAVI: I'll give you a moment to review.</p> <p>21 (Brief pause in the proceeding)</p> <p>22 BY MS. RAVI:</p> <p>23 Q. Do you recognize this document?</p> <p>24 A. I do.</p> <p>25 Q. What is this?</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. I'm handing you what I've marked as Plaintiffs'</p> <p>2 Exhibit 7.</p> <p>3 (Exhibit 7 is marked for identification.)</p> <p>4 MS. RAVI: I'll give you a moment to review.</p> <p>5 (Brief pause in the proceeding)</p> <p>6 BY MS. RAVI:</p> <p>7 Q. Are you familiar with this document?</p> <p>8 A. Yes.</p> <p>9 Q. What is this?</p> <p>10 A. It's an e-mail from Susan Murray to me and staff</p> <p>11 about gender dysphoria claims and activity and volume of</p> <p>12 members for the Plan Year to Date 2017.</p> <p>13 Q. And does it have an attachment?</p> <p>14 A. It does.</p> <p>15 Q. Okay. Turning to PLAN DEF9070, is this the</p> <p>16 attachment to the e-mail you received?</p> <p>17 A. Yes.</p> <p>18 Q. Does the right most column on this page, PLAN</p> <p>19 DEF9070, indicate the Plan Paid Amount for gender dysphoria</p> <p>20 claims?</p> <p>21 A. Yes.</p> <p>22 Q. What is this amount?</p> <p>23 A. 194,739.74.</p> <p>24 Q. And what does that amount reflect? What does the</p> <p>25 column indicate?</p>
<p style="text-align: right;">Page 51</p> <p>1 A. It's an e-mail from Susan Murray to Mona and</p> <p>2 Lotta at the Plan describing the call activity.</p> <p>3 So they were, in fact, in some way able to track,</p> <p>4 specifically for gender dysphoria, who was calling and how</p> <p>5 much had been billed to date.</p> <p>6 Q. And is the how much had been billed to date the</p> <p>7 claim activity?</p> <p>8 A. Yes.</p> <p>9 Q. Turning to the page marked PLAN DEF61647, as of</p> <p>10 January 22, 2017, what was the total amount that Blue Cross</p> <p>11 Blue Shield reported as paid for gender dysphoria claim</p> <p>12 activity?</p> <p>13 A. 287.57.</p> <p>14 Q. And turning to the subsequent Page PLAN DEF61646,</p> <p>15 as of February 16, 2017, what was the amount that Blue</p> <p>16 Cross Blue Shield reported as paid for gender dysphoria</p> <p>17 claim activity?</p> <p>18 A. 1733.66.</p> <p>19 Q. And turning to the next page, PLAN DEF61645, what</p> <p>20 was the amount paid as of February 27, 2017?</p> <p>21 A. 2172.41.</p> <p>22 Q. All right. At a certain point, did you start</p> <p>23 receiving these claim reports directly from Blue Cross Blue</p> <p>24 Shield?</p> <p>25 A. I don't recall.</p>	<p style="text-align: right;">Page 53</p> <p>1 A. The total amount that the Plan paid after the</p> <p>2 discounts and member coverage.</p> <p>3 Q. And the column Total Covered After Discount, how</p> <p>4 is that different from the Plan Paid Amount?</p> <p>5 A. The difference would be the member share, cost</p> <p>6 share.</p> <p>7 Q. And turning to PLAN DEF9071, does that column,</p> <p>8 Member Liability/COB/Other, indicate the member share?</p> <p>9 A. Yes.</p> <p>10 Q. In January of 2017, is it correct that the Plan</p> <p>11 Paid Amount for gender dysphoria claims was 2628.84?</p> <p>12 A. Yes.</p> <p>13 Q. Okay. And does this chart show payments on</p> <p>14 claims paid through October 31, 2017?</p> <p>15 A. Correct.</p> <p>16 Q. And the total amount listed through October 31,</p> <p>17 2017 you said was 194,739.74.</p> <p>18 Is that correct?</p> <p>19 A. Correct.</p> <p>20 Q. Does the Plan receive reports from Blue Cross</p> <p>21 Blue Shield tracking claim activity for all its covered</p> <p>22 benefits?</p> <p>23 A. Only when asked. We get claims data. And we can</p> <p>24 run our own reports, depending on what we're trying to</p> <p>25 analyze.</p>

<p style="text-align: right;">Page 54</p> <p>1 Q. When does the Plan ask?</p> <p>2 A. When we need to look, review something.</p> <p>3 Q. What are some examples of something that would be</p> <p>4 typically reviewed such that the Plan would request a</p> <p>5 report for claim activity?</p> <p>6 A. Well, 85 percent of our costs come from 15</p> <p>7 percent of our membership. So we would maybe run reports</p> <p>8 on, you know, what is the incidence of diabetes. It's one</p> <p>9 of our highest cost and affecting the most number of</p> <p>10 members.</p> <p>11 So, again, it's less about individual niche</p> <p>12 groups. It's not about that at all. It's about where is</p> <p>13 our high costs. And the Plan is a health benefit, that we</p> <p>14 need to serve all members.</p> <p>15 So we would be evaluating maybe diabetes and</p> <p>16 where that incidence of coverage is. Is it, are they in</p> <p>17 the hospitals? Are they not adhering to medications?</p> <p>18 We would evaluate, you know, who needs, how is</p> <p>19 insulin being adhered to. That's a big focus.</p> <p>20 We've run an opioid analysis to make sure that,</p> <p>21 for example, to see if North Carolina has an opioid problem</p> <p>22 within the State Health Plan membership, you know, relative</p> <p>23 to the Governor's Stop Act, or DOJ, Attorney General's Stop</p> <p>24 Act, and to see if that's, again, an incidence or a problem</p> <p>25 within the State Health Plan.</p>	<p style="text-align: right;">Page 56</p> <p>1 A. There was nobody that said oh, we should let it</p> <p>2 sunset, oh, we should push it forward and bring it up for</p> <p>3 vote.</p> <p>4 Q. I'll hand you what I've marked as Plaintiffs'</p> <p>5 Exhibit 8.</p> <p>6 (Exhibit 8 is marked for identification.)</p> <p>7 BY MS. RAVI:</p> <p>8 Q. Do you recognize this document?</p> <p>9 A. Generally, yes.</p> <p>10 Q. Have you seen it before?</p> <p>11 A. I have not seen it with the track changes.</p> <p>12 Q. What is this document?</p> <p>13 A. It appears to be a draft of a resolution relative</p> <p>14 to the coverage that suggests that the state will follow</p> <p>15 the law and, if the, there's any repeal of the law or</p> <p>16 notice by the Department of Health and Human Services that</p> <p>17 this benefit will no longer be required to be provided</p> <p>18 under federal law.</p> <p>19 Q. And looking at the document marked PLAN DEF35963,</p> <p>20 does this appear to be the cover e-mail attaching that</p> <p>21 document?</p> <p>22 A. It does.</p> <p>23 Q. What is the date on the cover e-mail?</p> <p>24 A. January 23, 2017.</p> <p>25 Q. So turning to the attachment PLAN DEF44771, who</p>
<p style="text-align: right;">Page 55</p> <p>1 We look at adherence to medications in general.</p> <p>2 That's maybe more CVS.</p> <p>3 So whatever we need to analyze at a particular</p> <p>4 point in time.</p> <p>5 Q. Turning to reinstatement of the exclusion for the</p> <p>6 2018 Plan Year next, did anyone at the Plan discuss whether</p> <p>7 to permit the coverage of gender dysphoria treatment to</p> <p>8 sunset at the end of the 2017 Plan Year?</p> <p>9 A. Repeat the question.</p> <p>10 Q. Did anyone at the Plan discuss whether to let the</p> <p>11 coverage of gender dysphoria treatment, to let it sunset at</p> <p>12 the end of the 2017 Plan Year?</p> <p>13 A. What we discussed was it's a board decision. And</p> <p>14 it's either going to go, it's either going to be sunset or,</p> <p>15 if the board brings it up, then it will be evaluated,</p> <p>16 whatever that motion they bring up.</p> <p>17 Q. Did anyone at the Plan discuss whether to let it</p> <p>18 sunset or to bring it up before the board?</p> <p>19 A. Anyone -- can you repeat the question?</p> <p>20 Q. Sure. Did anyone at the Plan discuss whether to</p> <p>21 let the gender dysphoria coverage sunset versus bringing</p> <p>22 the issue before the board?</p> <p>23 A. Not as an action.</p> <p>24 Q. When you say not as an action, could you clarify</p> <p>25 what that means?</p>	<p style="text-align: right;">Page 57</p> <p>1 drafted this document?</p> <p>2 A. I do not know. But based on the e-mail, it would</p> <p>3 appear that some combination of Blake Thomas and Lotta</p> <p>4 Crabtree.</p> <p>5 Q. And why was this resolution drafted?</p> <p>6 A. My guess is there is -- well, it's not really a</p> <p>7 guess -- it's based on following the law and whether or not</p> <p>8 the coverage is mandated or not. That was the general</p> <p>9 reason for covering it in the first place was because of</p> <p>10 the risk of losing federal funding.</p> <p>11 Q. And the resolution states that the Board of</p> <p>12 Trustees approve medically necessary coverage of gender</p> <p>13 transition services for the 2017 Benefit Year.</p> <p>14 Is that right?</p> <p>15 A. That's what it says, yes.</p> <p>16 Q. And it states that that was in response to a</p> <p>17 final rule issued by the Department of Health and Human</p> <p>18 Services?</p> <p>19 A. Yes.</p> <p>20 Q. Turning to the fourth WHEREAS clause, it states</p> <p>21 that the State Treasurer recommends that this benefit only</p> <p>22 be offered so long as it is required to be offered under</p> <p>23 federal law.</p> <p>24 Is that correct?</p> <p>25 A. Yes.</p>

<p style="text-align: right;">Page 58</p> <p>1 Q. Did you discuss this recommendation with the</p> <p>2 State Treasurer?</p> <p>3 A. No.</p> <p>4 Q. Is it correct that care must be medically</p> <p>5 necessary to be covered by your Plan?</p> <p>6 A. Yes. But the Plan does not cover all medically</p> <p>7 necessary treatment.</p> <p>8 Q. At the time of this draft resolution, was it the</p> <p>9 Plan's position that gender transition services were</p> <p>10 medically necessary care?</p> <p>11 MR. RULEY: Objection, form.</p> <p>12 THE WITNESS: Again, a lot of things are</p> <p>13 medically necessary that the Plan doesn't cover. And a lot</p> <p>14 is not, it's maybe a little bit of a loaded word. But that</p> <p>15 is what it says here.</p> <p>16 BY MS. RAVI:</p> <p>17 Q. I'm sorry -- could you clarify when you say that</p> <p>18 is what it says here?</p> <p>19 A. It says here in the resolution that the board</p> <p>20 approve medically necessary coverage.</p> <p>21 Q. Medically necessary coverage of gender transition</p> <p>22 services?</p> <p>23 A. Yes.</p> <p>24 Q. Regarding the position on whether or not gender</p> <p>25 transition services are medically necessary coverage, has</p>	<p style="text-align: right;">Page 60</p> <p>1 documents that I looked at or the online sites that I</p> <p>2 looked at.</p> <p>3 Q. What medical journals and online sites did you</p> <p>4 look at?</p> <p>5 A. I looked at Kaiser, I looked at Milliman, looked</p> <p>6 at the New England Journal of Medicine to name a few that I</p> <p>7 can think of.</p> <p>8 Q. Any others?</p> <p>9 A. Not that I remember.</p> <p>10 Q. And turning to the second WHEREAS clause of this</p> <p>11 draft resolution, it states that the estimated annual cost</p> <p>12 for the coverage of gender dysphoria treatment is between</p> <p>13 350,000 and 850,000 dollars.</p> <p>14 Is that right?</p> <p>15 A. Uh-huh. Yes.</p> <p>16 Q. Did the Plan's Board of Trustees hold a meeting</p> <p>17 in January of 2017?</p> <p>18 A. Yes.</p> <p>19 Q. And at that meeting, did the board take up a vote</p> <p>20 to continue lifting the exclusion for the 2018 Plan Year?</p> <p>21 A. No.</p> <p>22 Q. Did the board discuss the issue?</p> <p>23 A. I do not know.</p> <p>24 Q. Were any materials presented to the board on this</p> <p>25 issue?</p>
<p style="text-align: right;">Page 59</p> <p>1 the Plan revised that position since the date of this draft</p> <p>2 resolution?</p> <p>3 A. I wouldn't say the Plan has revised that</p> <p>4 position. I think the Plan just has other opinions about</p> <p>5 whether or not all those, the WPATH and the other studies</p> <p>6 are accurate.</p> <p>7 And having seen through research myself, albeit</p> <p>8 not saved, just looking into gender transformation care, it</p> <p>9 has not been, it's been clear to me that there are</p> <p>10 different opinions widely stated.</p> <p>11 Q. You said looking into the WPATH Standards and</p> <p>12 other studies, what are those other studies?</p> <p>13 A. The DM one you mentioned and the, whatever the</p> <p>14 other one was we talked about earlier, the American</p> <p>15 Psychological Association.</p> <p>16 Q. Any other studies you're referring to?</p> <p>17 A. No. The three you've mentioned.</p> <p>18 Q. And when you say the research you've done</p> <p>19 yourself, what was that research?</p> <p>20 A. I looked through appropriate medical journals</p> <p>21 online to see for my own knowledge, as I was new to the</p> <p>22 Plan, for my own knowledge about transition surgery and</p> <p>23 coverage and medical necessity.</p> <p>24 And it was very difficult for me to find a</p> <p>25 blanket statement in any of the coverage, in any of the</p>	<p style="text-align: right;">Page 61</p> <p>1 A. I don't know.</p> <p>2 Q. Did the Board of Trustees hold a meeting in March</p> <p>3 of 2017?</p> <p>4 A. I believe so. I don't remember all the dates</p> <p>5 right off the top of my head since I wasn't there.</p> <p>6 Q. At that meeting, did the board take up a vote to</p> <p>7 continue lifting the exclusion for the subsequent plan</p> <p>8 year?</p> <p>9 A. I do not believe so.</p> <p>10 Q. Did the board discuss the issue?</p> <p>11 A. I do not believe so.</p> <p>12 Q. And were any materials presented to the board?</p> <p>13 A. I don't believe so.</p> <p>14 Q. Did the Board of Trustees hold a meeting in June</p> <p>15 of 2017?</p> <p>16 A. Possibly.</p> <p>17 Q. What about in July of 2017?</p> <p>18 A. No.</p> <p>19 Q. When was the next board meeting after the March</p> <p>20 2017 board meeting for 2017?</p> <p>21 A. It was in September.</p> <p>22 Q. So January 2017, March, and then September?</p> <p>23 A. Yes.</p> <p>24 Q. And at the September 2017 board meeting, did the</p> <p>25 board take up a vote to continue lifting the exclusion for</p>

<p style="text-align: right;">Page 62</p> <p>1 the 2018 Plan Year?</p> <p>2 A. No.</p> <p>3 Q. Did the board discuss the issue?</p> <p>4 A. There were public comments.</p> <p>5 Q. Were any materials presented to the board on this</p> <p>6 issue?</p> <p>7 A. No.</p> <p>8 Q. Did the board receive a request to continue</p> <p>9 lifting the exclusion for the subsequent plan year?</p> <p>10 A. I believe Ames Simmons made the request. He's a</p> <p>11 public, through public comment.</p> <p>12 Q. After the 2017 board meeting, when was the next</p> <p>13 Board of Trustees meeting?</p> <p>14 A. Which 2017 meeting are you referring to?</p> <p>15 Q. After the September 2017 board meeting, when was</p> <p>16 the next one?</p> <p>17 A. I believe it was in November 2017.</p> <p>18 Q. Okay. And did the board take up a vote to</p> <p>19 continue lifting the exclusion at that meeting?</p> <p>20 A. No.</p> <p>21 Q. Did it discuss the issue?</p> <p>22 A. It was discussed in public comments, similarly to</p> <p>23 September.</p> <p>24 Q. And were any materials presented to the board on</p> <p>25 that issue?</p>	<p style="text-align: right;">Page 64</p> <p>1 Q. What does ADM stand for?</p> <p>2 A. Administrative Decision Memo.</p> <p>3 Q. What was the date of that memo?</p> <p>4 A. I do not know.</p> <p>5 Q. Approximately what month would it have been</p> <p>6 provided to Blue Cross?</p> <p>7 A. It would have had to have been provided in</p> <p>8 December, so that it would be ready for the -- let me</p> <p>9 rephrase that.</p> <p>10 It would likely have been in December for the</p> <p>11 January Plan, for the January '18 Plan Year. But it is</p> <p>12 possible that it was in January because you can re-process</p> <p>13 claims.</p> <p>14 Q. So likely around December 2018, January?</p> <p>15 A. Yes.</p> <p>16 Q. I apologize -- December 2017, January 2018?</p> <p>17 A. Correct.</p> <p>18 Q. All right.</p> <p>19 MS. RAVI: Could we go off the record?</p> <p>20 (Off the record)</p> <p>21 BY MS. RAVI:</p> <p>22 Q. We were discussing Blue Cross Blue Shield of</p> <p>23 North Carolina and the Plan's instruction to Blue Cross</p> <p>24 Blue Shield regarding the reinstated exclusion for the 2018</p> <p>25 Plan Year.</p>
<p style="text-align: right;">Page 63</p> <p>1 A. No.</p> <p>2 Q. Other than the ones we've talked about, did the</p> <p>3 Plan's Board of Trustees hold any other meetings in 2017?</p> <p>4 A. No.</p> <p>5 Q. Did the Board of Trustees ever take up a vote in</p> <p>6 2017 to continue lifting the exclusion for the 2018 Plan</p> <p>7 Year?</p> <p>8 A. No.</p> <p>9 Q. Okay. Was there any board meeting from January</p> <p>10 2018 to the present where this issue has been discussed?</p> <p>11 A. It's been discussed in public comment numerous</p> <p>12 times, along with people who want hearing aids and other</p> <p>13 such benefits.</p> <p>14 Q. Is Blue Cross Blue Shield of North Carolina the</p> <p>15 Plan's third-party administrator?</p> <p>16 A. Yes.</p> <p>17 Q. In anticipation of the sunseting of the gender</p> <p>18 dysphoria coverage at the end of 2017, did the Plan provide</p> <p>19 Blue Cross Blue Shield with revisions to the 2018 Plan</p> <p>20 Benefits Booklets?</p> <p>21 A. The Plan updated its own benefits booklets and</p> <p>22 provided Blue Cross with a decision memo on the fact that</p> <p>23 they needed to put the exclusions back in play.</p> <p>24 Q. What was that decision memo?</p> <p>25 A. It's an called an ADM.</p>	<p style="text-align: right;">Page 65</p> <p>1 Did Blue Cross Blue Shield of North Carolina state</p> <p>2 that it would need the Plan to hold it harmless if the Plan</p> <p>3 did not continue coverage for the 2018 Plan Year?</p> <p>4 A. Yes.</p> <p>5 Q. And did the Plan discuss this with Blue Cross</p> <p>6 Blue Shield?</p> <p>7 A. Oh, yes.</p> <p>8 Q. What was discussed?</p> <p>9 A. Whether or not we felt it was necessary to I</p> <p>10 guess worry about it or not. We chose -- we just didn't</p> <p>11 think -- they're our third-party administrator. They're</p> <p>12 just, they were just kind of doing what they needed to do</p> <p>13 business, to cover their business processes. And we chose</p> <p>14 to not worry about it.</p> <p>15 Q. When you say we chose to not worry about it, what</p> <p>16 does that mean?</p> <p>17 A. We're going to, they're going to, we're going to</p> <p>18 hold them harmless if someone were to raise issue, and we</p> <p>19 would own that.</p> <p>20 Q. So did the Plan sign the requested</p> <p>21 indemnification agreement?</p> <p>22 A. I don't remember.</p> <p>23 Q. Who at the Plan was discussing Blue Cross Blue</p> <p>24 Shield's request?</p> <p>25 A. Can you repeat that?</p>

<p style="text-align: right;">Page 66</p> <p>1 Q. Who at the Plan was discussing Blue Cross Blue 2 Shield's request to be held harmless? 3 A. Plan staff. And I'm sure that would require the 4 input from the Treasurer and probably legal counsel. 5 Q. Who was legal counsel? 6 A. At the time, that would have been Sam Hayes, 7 General Counsel, Andrew Norton, as Plan Counsel. 8 Q. Anyone else in terms of local counsel? 9 A. There could have been others involved that I 10 wasn't aware of. 11 Q. In terms of Plan staff who discussed this, who 12 all was that? 13 A. It would have been, besides myself, Caroline 14 Smart, Ted Enarson. I don't remember who was there. Beth 15 Horner. 16 Q. Anyone else? 17 A. That's probably it. 18 Q. All right. And to the Plan's knowledge, did it 19 agree to hold Blue Cross Blue Shield of North Carolina 20 harmless? 21 A. I believe so, yes. 22 Q. All right. 23 MS. RAVI: Can we go off the record? 24 (Off the record) 25 MS. RAVI: Back on the record.</p>	<p style="text-align: right;">Page 68</p> <p>1 A. As I said, it was a press release. So yes, I had 2 seen it. And it's our obligation to send it to the board, 3 all press releases. 4 Q. Did you edit the statement before it went out? 5 A. No. 6 Q. Did anyone else edit this statement? 7 A. We copy it straight, we put forward the press 8 release. 9 Q. Who drafted the press release? 10 A. It would have been in the Treasurer's Office. 11 Q. Who in the Treasurer's Office? 12 A. I'm not aware. I know who is in the Treasurer's 13 Office, but I'm not aware who drafted the statement. 14 Probably the Communications Director. 15 Q. Who is the Communications Director? 16 A. Frank Lester. 17 Q. Is the Plan aware of anyone having edited this 18 statement? 19 A. No. 20 Q. And the statement was sent on your behalf. Is 21 that right? 22 A. Yes. 23 Q. And the statement makes reference to the medical 24 uncertainty of the procedure it references. 25 Is that right?</p>
<p style="text-align: right;">Page 67</p> <p>1 THE WITNESS: If I could make a clarifying 2 statement from the previous discussions? 3 I misspoke when I said that we actually did sign 4 the hold harmless or indemnification for Blue Cross Blue 5 Shield. We did not and cannot. State law prohibits us from 6 doing that. 7 MS. RAVI: All right. Thank you. 8 BY MS. RAVI: 9 Q. I'll hand you what I've marked as Plaintiffs' 10 Exhibit 9. 11 (Exhibit 9 is marked for identification.) 12 BY MS. RAVI: 13 Q. Are you familiar with this document? 14 A. I am. 15 Q. What is it? 16 A. It's an e-mail sent, it's essentially a press 17 release from the Treasurer. And I'm obligated to send it 18 to our board members, as I do all press releases. 19 Q. Who is Lorraine Munk? 20 A. My Executive Assistant. 21 Q. Did you request that Ms. Munk send this e-mail on 22 your behalf? 23 A. Yes. 24 Q. Had you seen a copy of this statement previous to 25 this e-mail?</p>	<p style="text-align: right;">Page 69</p> <p>1 A. That is correct. 2 Q. What was the basis for that reference? 3 A. This is the Treasurer's words. I'm not aware of 4 what he was referring to. I don't disagree with it. But 5 these are his words. 6 Q. All right. Are you aware of the Treasurer's 7 basis for this statement? 8 A. No. 9 Q. Does the Plan believe the treatment for gender 10 dysphoria is medically uncertain? 11 A. Yes. 12 Q. When did this view develop? 13 A. Please repeat. 14 Q. When did this view develop? 15 A. I would say over several years. In 2016, it's 16 very clear that while the presentations had a lot of 17 supporting documentation, the basis of the sunseting or 18 the removal of the exclusion was based on the 1557 Rule and 19 the need to keep the federal funding. 20 And the Plan at the time, the staff used and put 21 forth all sorts of other information when we just went 22 through. 23 But since that time, we have new staff, we have a 24 small staff, we manage contracts, and we have limited 25 clinical staff.</p>

<p style="text-align: right;">Page 70</p> <p>1 But the people we work with, and as I already</p> <p>2 mentioned the journals or whatever that I have reviewed and</p> <p>3 discussions we've had with current and former board</p> <p>4 members, there's a lot of uncertainty on whether or not the</p> <p>5 treatments are effective. And in some cases, maybe they</p> <p>6 are. But there's discussion in the space of the, more the</p> <p>7 psychological effects and how much it's important there</p> <p>8 versus the surgery, the transition surgery.</p> <p>9 Q. And what was the basis for Treasurer Folwell's</p> <p>10 statement regarding the medical uncertainty?</p> <p>11 MR. RULEY: Objection, form.</p> <p>12 THE WITNESS: I don't know.</p> <p>13 BY MS. RAVI:</p> <p>14 Q. Did Treasurer Folwell discuss this statement with</p> <p>15 you?</p> <p>16 A. No.</p> <p>17 Q. Did Treasurer Folwell discuss this statement with</p> <p>18 anyone at the Plan?</p> <p>19 A. I'm not aware of any conversations he had with</p> <p>20 anybody at the Plan.</p> <p>21 Q. And does this statement from October 25th reflect</p> <p>22 the views of the State Health Plan?</p> <p>23 A. Parts of it might, such as the legal and medical</p> <p>24 uncertainty.</p> <p>25 The Franciscan Alliance opinion came out in</p>	<p style="text-align: right;">Page 72</p> <p>1 benefits and any benefits that might apply to a broad swath</p> <p>2 of the population with a not guaranteed but a strong</p> <p>3 proponent of lower costs in the future.</p> <p>4 And so that's where legal and medical uncertainty</p> <p>5 -- I don't have to cover medically necessary treatment. We</p> <p>6 cover a lot of it. But in this case, we don't.</p> <p>7 Q. Prior to this statement coming out on October 25,</p> <p>8 2018, did Plan staff discuss the legal uncertainty that's</p> <p>9 referenced here?</p> <p>10 A. Yes.</p> <p>11 Q. Did Plan staff discuss the medical uncertainty</p> <p>12 that's referenced here?</p> <p>13 A. Yes.</p> <p>14 Q. Let's turn back to Exhibit 5. And if you can</p> <p>15 turn to Page 10 of this document.</p> <p>16 Plaintiffs' Interrogatory Number 3 asks the Plan</p> <p>17 to discuss the factual basis for each governmental interest</p> <p>18 that the Plan contends supports the exclusion.</p> <p>19 Is that right?</p> <p>20 A. Yes.</p> <p>21 Q. And is it correct, turning to the next page, the</p> <p>22 Plan states that the Plan has not identified any valid,</p> <p>23 reliable, peer-reviewed longitudinal studies that support</p> <p>24 the efficacy of the plaintiffs' desired treatment?</p> <p>25 A. I'm sorry -- where are you?</p>
<p style="text-align: right;">Page 71</p> <p>1 December of 2016. And we know there were various cases in</p> <p>2 Texas I believe.</p> <p>3 So, again, I think there's legal uncertainty. I</p> <p>4 think there's medical uncertainty. And our thoughts kind</p> <p>5 of went down that direction.</p> <p>6 Plus the fact that this is such, as we already</p> <p>7 went through, the Blue Cross spreadsheet that was part of</p> <p>8 the record, where it's such a small part of the Plan</p> <p>9 membership that this benefit would apply to. It's a niche.</p> <p>10 I call that a niche, a small population of people.</p> <p>11 And the Plan can't cover every requested benefit</p> <p>12 for every single niche that comes forward, niche</p> <p>13 population. It happens all the time.</p> <p>14 You know, I have to turn down parents who want a</p> <p>15 special feeding benefit for their infant children who can't</p> <p>16 process food normally.</p> <p>17 I have to turn down hearing aids for a much</p> <p>18 larger population of people because they're so expensive.</p> <p>19 There's plenty of efficacy there, right? It helps people</p> <p>20 hear. But the fact that they have to change hearing aids</p> <p>21 every five to six years or more frequently, I can't afford</p> <p>22 that as a Plan.</p> <p>23 Because if I -- I have to serve a whole entire</p> <p>24 population with a very finite amount of money. And so the</p> <p>25 only thing I can really cover is the current state of</p>	<p style="text-align: right;">Page 73</p> <p>1 Q. I am at the bottom of Page 11, last paragraph.</p> <p>2 A. Okay.</p> <p>3 That would be true.</p> <p>4 Q. Is a peer-reviewed, longitudinal study that</p> <p>5 supports the efficacy of treatment a prerequisite for the</p> <p>6 Plan to cover a proposed benefit?</p> <p>7 A. Not necessarily. When we evaluate, as I think we</p> <p>8 said earlier, it's a holistic review. There's no single</p> <p>9 pathway to coverage. It has to be a broad swath of</p> <p>10 membership, that there's a benefit for multiple people.</p> <p>11 There's a cost component to it. There's a</p> <p>12 downstream cost component to it. There's got to be some</p> <p>13 common -- not experimental for sure.</p> <p>14 There's got to be some common understanding in</p> <p>15 the medical community that it is a treatment that will</p> <p>16 produce a downstream effect that's positive.</p> <p>17 So, you know, it's very difficult to come back</p> <p>18 and say well, peer-reviewed, longitudinal studies -- I'm</p> <p>19 not a clinician and I'm not a researcher, so it's, you</p> <p>20 know -- but to the extent that we have not found any real</p> <p>21 evidence that it's absolutely black and white, this</p> <p>22 particular issue.</p> <p>23 You know, I think it goes, well, it should go</p> <p>24 without saying this is not a personal issue for me. I</p> <p>25 don't get, I have no personal opinion about this.</p>

<p style="text-align: right;">Page 74</p> <p>1 Because I walk through the front door at the</p> <p>2 office, and I'm a fiduciary. This is all about the cost</p> <p>3 and maintaining this benefit for 740,000 people who expect</p> <p>4 it every single day and the retirees that have an</p> <p>5 expectation of the benefit when they retire.</p> <p>6 And so every decision I make -- and I'm speaking</p> <p>7 for myself -- is about that. It's all about that every</p> <p>8 day.</p> <p>9 It breaks my heart 9 times out of 10 when I have</p> <p>10 to decline a benefit, 9 times out of 10.</p> <p>11 When I see people that need hearing aids, I would</p> <p>12 love to give them a hearing aid, I would love to.</p> <p>13 I have nothing against transgender people. I</p> <p>14 would be more than happy to provide the benefit. But it's</p> <p>15 not my decision. I'm a fiduciary first. And I'm</p> <p>16 responsible for 740,000 people. This is not personal.</p> <p>17 This is all about money very simply put.</p> <p>18 I've been charged with reducing the costs of the</p> <p>19 Plan to operate since the day I started. And we have done</p> <p>20 just that.</p> <p>21 You know, there's some discussions about how much</p> <p>22 money the Plan has saved. Well, it's because we've worked</p> <p>23 really hard to do that. We've taken out all extraneous</p> <p>24 benefits.</p> <p>25 We used to cover benefits for a small population</p>	<p style="text-align: right;">Page 76</p> <p>1 A. Possibly, but I do not know.</p> <p>2 Q. All right.</p> <p>3 A. If you'll recall, though, this says the Plan has</p> <p>4 not identified any valid or reliable -- so to the extent</p> <p>5 that we are reviewing articles, as I mentioned earlier,</p> <p>6 when I'm reviewing the journal, the New England Journal of</p> <p>7 Medicine and Kaiser and Milliman, those types of reviews,</p> <p>8 there's been nothing that makes this in my mind 100 percent</p> <p>9 clear.</p> <p>10 Q. Going back to the paragraph that starts with</p> <p>11 Second on the same page, the Plan states that it remains</p> <p>12 unaware of any objective test to identify individuals</p> <p>13 suffering from gender dysphoria who will benefit from the</p> <p>14 hormonal and surgical treatments sought here.</p> <p>15 Is that right?</p> <p>16 A. That is correct. The Plan remains unaware of any</p> <p>17 objective test -- yes.</p> <p>18 Q. Is an objective test to identify individuals who</p> <p>19 will benefit from the proposed treatment a prerequisite for</p> <p>20 the Plan to cover a proposed benefit?</p> <p>21 A. As I've stated before, it's a holistic review.</p> <p>22 And so if there are, in fact, objective tests,</p> <p>23 then that might be taken into consideration.</p> <p>24 Q. Has the Plan conducted a search for such</p> <p>25 objective tests?</p>
<p style="text-align: right;">Page 75</p> <p>1 of really healthy people for an app that was, I think we</p> <p>2 paid 4000 dollars a person. It was the healthy people who</p> <p>3 were doing it. It wasn't achieving anything for health.</p> <p>4 So we canceled the benefit. It was a small, very small</p> <p>5 population, health management benefit.</p> <p>6 But that is what we do every day. And I have to</p> <p>7 make choices that are awful sometimes. And it gives me no</p> <p>8 great pleasure, but it is my responsibility.</p> <p>9 Q. Turning back to the peer-reviewed studies we</p> <p>10 discussed, did the Plan conduct a search for those studies?</p> <p>11 A. I did not. I don't believe the Plan did.</p> <p>12 Q. Okay. The Plan's response also states that</p> <p>13 during the pendency of this case, the American Journal of</p> <p>14 Psychiatry issued a correction to an article.</p> <p>15 Do you see that here?</p> <p>16 A. I do.</p> <p>17 Q. What was that article?</p> <p>18 A. I don't know -- not right this moment.</p> <p>19 Q. To the Plan's knowledge, has Treasurer Folwell</p> <p>20 reviewed that article and the correction referenced here?</p> <p>21 A. I do not know.</p> <p>22 Q. Has Plan staff reviewed the article?</p> <p>23 A. Possibly, but I do not know.</p> <p>24 Q. And has the Board of Trustees reviewed that</p> <p>25 article?</p>	<p style="text-align: right;">Page 77</p> <p>1 A. If it were to become necessary, then the Plan</p> <p>2 would make a search.</p> <p>3 But we do not find it necessary because of the</p> <p>4 things I've already discussed -- about the small volume of</p> <p>5 patients being a niche group, that we wouldn't be able to</p> <p>6 afford to offer the benefit.</p> <p>7 Q. So to the Plan's knowledge today, has the Plan</p> <p>8 conducted a search in the past for such tests?</p> <p>9 A. No.</p> <p>10 Q. And the Plan states that for minors, the Plan is</p> <p>11 unaware of any methodology to reliably distinguish between</p> <p>12 children for whom gender dysphoria will resolve without</p> <p>13 hormonal therapy or surgical intervention and those for</p> <p>14 whom it will not.</p> <p>15 Is that right?</p> <p>16 A. Yes.</p> <p>17 Q. Was the Plan's unawareness of this methodology</p> <p>18 for children also its justification for excluding this care</p> <p>19 for adults?</p> <p>20 A. I can't say.</p> <p>21 Q. Is the Plan aware?</p> <p>22 A. Of?</p> <p>23 Q. Of this methodology.</p> <p>24 A. For minors?</p> <p>25 Q. Uh-huh.</p>

<p style="text-align: right;">Page 78</p> <p>1 A. No.</p> <p>2 Q. Okay. Does the Plan contend that this concern</p> <p>3 it's identified regarding minors apply to withholding the</p> <p>4 same care for individuals who are in late adolescence?</p> <p>5 A. It generally becomes a moot point because the</p> <p>6 Plan is not considering to offer the benefit.</p> <p>7 The Plan does not offer the benefit, so we're not</p> <p>8 distinguishing between, right now, at this point, between</p> <p>9 minors and adults.</p> <p>10 Q. Is the Plan's unawareness of methodology to</p> <p>11 reliably distinguish between children for whom gender</p> <p>12 dysphoria will resolve without hormonal therapy or surgical</p> <p>13 intervention and those for whom it will not, is the Plan's</p> <p>14 unawareness of that methodology one of the reasons for</p> <p>15 which it excludes coverage?</p> <p>16 A. I think I just said no.</p> <p>17 Q. And the Plan states that the FDA has not approved</p> <p>18 any drugs for treatment of gender dysphoria.</p> <p>19 Is that right?</p> <p>20 A. That is correct.</p> <p>21 Q. Do the Plan documents specify that the FDA must</p> <p>22 approve medical drugs as a prerequisite for coverage?</p> <p>23 A. The Plan does not -- only -- the Plan does not</p> <p>24 cover non-FDA approved drugs except for in the case of</p> <p>25 cancer. And I think that's probably the only, only space.</p>	<p style="text-align: right;">Page 80</p> <p>1 Q. Are there any governmental interests identified</p> <p>2 in response to this interrogatory?</p> <p>3 A. So other than FDA, is that what you're asking</p> <p>4 for?</p> <p>5 Q. Other than the statement made in response to</p> <p>6 Interrogatory Number 3.</p> <p>7 A. Then --</p> <p>8 MR. RULEY: Objection, form.</p> <p>9 THE WITNESS: Again, I don't -- no, I don't know.</p> <p>10 BY MS. RAVI:</p> <p>11 Q. Okay. Let's turn back to Page 10, actually Pages</p> <p>12 9 to 10 of this document.</p> <p>13 Plaintiffs' Interrogatory 2 asks the Plan to</p> <p>14 describe the financial sustainability of the State Health</p> <p>15 Plan.</p> <p>16 Is that right?</p> <p>17 A. Yes.</p> <p>18 Q. And turning over to Page 10, the Plan references</p> <p>19 several policies or decisions to improve the Plan's</p> <p>20 long-term sustainability that have been proposed, adopted,</p> <p>21 or implemented since 2017.</p> <p>22 Is that right?</p> <p>23 A. That is correct.</p> <p>24 Q. Listed under Response (a), the Plan references an</p> <p>25 increased use of a Medicare Advantage plan.</p>
<p style="text-align: right;">Page 79</p> <p>1 Q. And the FDA does not regulate surgical</p> <p>2 procedures. Is that right?</p> <p>3 A. I'm not a clinician, so I don't know that -- I'm</p> <p>4 not sure that that's correct. But I believe that -- I</p> <p>5 don't know the answer to that.</p> <p>6 Q. Other than the statements made in response to</p> <p>7 Plaintiffs' Interrogatory 3, are there any other</p> <p>8 governmental interests that the Plan contends support the</p> <p>9 exclusion?</p> <p>10 A. Any other -- can you rephrase that?</p> <p>11 Q. Yes. So Plaintiffs' Interrogatory Number 3 asks</p> <p>12 the Plan to identify the governmental interests that the</p> <p>13 Plan contends support the exclusion.</p> <p>14 Other than those identified in its response, are</p> <p>15 there any other governmental interests that the Plan</p> <p>16 contends supports the exclusion?</p> <p>17 MR. RULEY: Objection, form.</p> <p>18 THE WITNESS: I'm still not real clear -- I mean</p> <p>19 -- where -- is that in here?</p> <p>20 BY MS. RAVI:</p> <p>21 Q. So Interrogatory Number 3 asks the Plan to</p> <p>22 describe the factual basis for each governmental interest</p> <p>23 that you contend supports the exclusion.</p> <p>24 A. I think I'm struggling a little bit with the</p> <p>25 definition of governmental interest.</p>	<p style="text-align: right;">Page 81</p> <p>1 A. Yes.</p> <p>2 Q. And it states that this change is expected to</p> <p>3 generate 590 million dollars in savings over three years.</p> <p>4 Is that right?</p> <p>5 A. I don't see the 590 -- oh, right there. Thank</p> <p>6 you. Appreciate that.</p> <p>7 Yes, that is correct.</p> <p>8 Q. And under (b), it states elimination of the</p> <p>9 subsidy for retiree healthcare benefits for members hired</p> <p>10 after January 2021.</p> <p>11 Is that right?</p> <p>12 A. Yes.</p> <p>13 Q. How much is that expected to save?</p> <p>14 A. Well, out of the OPEB liability, it will be</p> <p>15 billions. But it is not calculable without that.</p> <p>16 It's probably in the 300, for the retirees,</p> <p>17 again, probably 300 dollars per member per month. But,</p> <p>18 again, it's pretty difficult to calculate that.</p> <p>19 Q. Under (c), the Plan references competitive</p> <p>20 bidding for third-party administration services for the</p> <p>21 Plan.</p> <p>22 Is that right?</p> <p>23 A. Correct.</p> <p>24 Q. And the Plan estimates that this will save at</p> <p>25 least 20 million dollars per year.</p>

<p style="text-align: right;">Page 82</p> <p>1 Is that right?</p> <p>2 A. Correct.</p> <p>3 Q. And under (d), the Plan references the Clear</p> <p>4 Pricing Project.</p> <p>5 Is that correct?</p> <p>6 A. Correct.</p> <p>7 Q. How much is that expected to save?</p> <p>8 A. In its full state of, of action, if we were to</p> <p>9 achieve the full goal, we would save probably 300 million</p> <p>10 dollars.</p> <p>11 Q. All right. I'll hand you what I've marked as</p> <p>12 Exhibit 10.</p> <p>13 (Exhibit 10 is marked for identification.)</p> <p>14 BY MS. RAVI:</p> <p>15 Q. Are you familiar with this document?</p> <p>16 A. I am.</p> <p>17 Q. What is this?</p> <p>18 A. It is a Disclosure of Expert Witnesses Who Do Not</p> <p>19 Provide a Written Report Pursuant to -- a citation -- by</p> <p>20 Defendants Dale Folwell, Dee Jones, and the North Carolina</p> <p>21 State Health Plan for Teachers and State Employees.</p> <p>22 Q. As of December 2017, what was the amount of the</p> <p>23 Plan's unfunded liability?</p> <p>24 A. December 2017? It's not calculated as of the end</p> <p>25 of the year. It's more as of 6-30. I want to say that was</p>	<p style="text-align: right;">Page 84</p> <p>1 Plan's annual budget?</p> <p>2 A. The Plan has an opportunity for a, in statute, an</p> <p>3 opportunity to transition money back to the Retired Health</p> <p>4 Benefit Trust Fund if the balance warrants.</p> <p>5 Q. Is the Plan's unfunded liability a component of</p> <p>6 its annual budget?</p> <p>7 A. Can you rephrase?</p> <p>8 Q. Does the Plan's unfunded liability factor into</p> <p>9 its annual budget?</p> <p>10 A. It's sort of the opposite. The unfunded</p> <p>11 liability is a calculation based on the 100-year run-out of</p> <p>12 claims costs.</p> <p>13 So, yes, so the budget or the actual numbers, not</p> <p>14 the budget, but the actual numbers inform the unfunded</p> <p>15 liability calculation. But it also has a trend rate. It's</p> <p>16 got a discount rate component. It's got a migration</p> <p>17 component to it, movement between Plans. And it's got an</p> <p>18 age component. And it's got then, again, the volume of</p> <p>19 retirees.</p> <p>20 Q. Okay. And your disclosure states, and I recall</p> <p>21 you testified earlier, that approximately 15 percent of</p> <p>22 Plan participants incur 85 percent of the cost of</p> <p>23 treatment?</p> <p>24 A. Uh-huh.</p> <p>25 Q. Does that figure apply to all Plan participants?</p>
<p style="text-align: right;">Page 83</p> <p>1 probably 42 billion.</p> <p>2 Q. And what is that amount today?</p> <p>3 A. 28.8 as of 6-30-20. And there will be a new</p> <p>4 calculation for 6-30-21.</p> <p>5 Q. Okay.</p> <p>6 A. Expected to go up.</p> <p>7 Q. And as of December 2017, what was the amount of</p> <p>8 the Plan's cash reserves?</p> <p>9 A. Probably around, it was about a billion dollars.</p> <p>10 We've tried to keep it around that level -- although it has</p> <p>11 grown up a little bit.</p> <p>12 Q. And what is that amount today?</p> <p>13 A. It's still around a billion.</p> <p>14 Q. Does the Plan have an annual budget?</p> <p>15 A. Yes.</p> <p>16 Q. What are the major components of that budget?</p> <p>17 A. Plan revenues, employer and employee components,</p> <p>18 claims costs, which are both medical and pharmacy, pharmacy</p> <p>19 netted by refunds, Medicare Advantage costs, fully insured</p> <p>20 costs, and then the admin costs.</p> <p>21 Q. Is it fair to say that the major components of</p> <p>22 the Plan's annual budget are revenues, the money coming in,</p> <p>23 and costs, the money going out?</p> <p>24 A. Very much so.</p> <p>25 Q. Are there any other major components of the</p>	<p style="text-align: right;">Page 85</p> <p>1 A. Yes.</p> <p>2 Q. So looking at all enrollees in the Plan, 15</p> <p>3 percent of those enrollees account for 85 percent of the</p> <p>4 cost of treatment?</p> <p>5 A. Correct.</p> <p>6 Q. Can an individual enrolled in the State Health</p> <p>7 Plan request that the State Health Plan change the pronoun</p> <p>8 associated with that enrollee?</p> <p>9 A. Please rephrase.</p> <p>10 Q. Can an individual that's enrolled in the State</p> <p>11 Health Plan request that the Plan change in its records the</p> <p>12 pronoun that's associated with that individual?</p> <p>13 A. The member can change his or her own pronoun.</p> <p>14 Q. How does that process occur?</p> <p>15 A. The member logs in to eBenefits or calls into the</p> <p>16 call center, benefit-focused call center, and either</p> <p>17 changes it him or herself, or requests that it be changed.</p> <p>18 Q. Okay.</p> <p>19 A. It's not validated.</p> <p>20 Q. What does that mean for it not to be validated?</p> <p>21 A. You could put in whatever you want. There's two</p> <p>22 options, male or female.</p> <p>23 And if I were female and put in female, I could</p> <p>24 do that. Or if I wanted to put in male, I can do that. If</p> <p>25 I make an error, I can do that too.</p>

<p style="text-align: right;">Page 86</p> <p>1 Q. And you said an individual can either log in and 2 change that themselves or they can make a request that the 3 Plan make that change? 4 A. No. They call into the call center, talk to a 5 call center rep who will record the call. And then they 6 can be requested to make that change. 7 Q. To whom is that request made? 8 A. The call center rep. 9 Q. If a call center rep gets that kind of request, 10 what happens next? 11 A. They comply with the request. 12 Q. And how does that process occur? 13 A. They go into the system and check yes or no or 14 male or female or exactly -- I guess it's male or female. 15 Q. And prior to going into the system, is any 16 validation requested? 17 A. Absolutely. Whatever -- like the member would 18 call in, and there would be validation questions from the 19 call center rep back to the member to confirm any number of 20 demographic statistics. 21 Q. What are those validation questions? 22 A. I don't know them specifically. But it's 23 something that would be similar to what we all do, which is 24 your address, your full name, possibly your Social Security 25 number, you know, phone numbers, whatever, to try to --</p>	<p style="text-align: right;">Page 88</p> <p>1 booklet is laid out and given to every new employee. And 2 they can make a choice as to whether or not they want the 3 benefit, can afford the benefit, or if the benefit covers 4 what they need to have covered. 5 Q. Is it correct that individuals cannot receive 6 coverage under the Plan unless they are employed by a state 7 agency or participating local agency? 8 A. They could be a dependent of someone on the State 9 Health Plan. 10 Q. So an individual to receive coverage must either 11 be employed by a state agency or be a dependent of somebody 12 who is? 13 A. Correct. And that dependency would be validated 14 through a qualifying documentation. 15 Q. How is an individual's eligibility for 16 participating in the Plan determined? 17 A. First of all, it's laid out in statute. But, 18 again, it's just be an employee of an employing unit that 19 is participating in the Plan is the simplest way to put it. 20 Q. And who makes that determination? 21 A. General Assembly. 22 Q. Does someone review an enrollee's request to 23 participate in the Plan to confirm that they are, in fact, 24 employed by a state agency? 25 A. Yes. We have what we call Health Benefit</p>
<p style="text-align: right;">Page 87</p> <p>1 they're a vendor. I don't tell them how to do their job. 2 I just tell them they have to validate it. It's not my 3 obligation how to exactly do it. 4 Q. So is it fair to say that validation is with 5 respect to making sure that the person calling in and 6 making this request is who they say they are? 7 A. Yes. 8 Q. Does the Plan require proof of any enrollee's 9 chromosomes before it goes into the system and complies 10 with that question? 11 A. No. 12 Q. Does it require proof of an enrollee's anatomy? 13 A. No. 14 Q. And does it require proof of an enrollee's DNA? 15 A. No. 16 Q. Everything we just talked about with regard to 17 changing the pronoun in the system, does that also apply to 18 a request to change an individual enrollee's gender marker 19 in the system? 20 A. We don't track gender markers in the system other 21 than male or female. We only have but two options right 22 now. 23 Q. Is participation in the Plan required for state 24 agency employees? 25 A. No. They have a choice. I mean the benefit</p>	<p style="text-align: right;">Page 89</p> <p>1 Representatives that are at every employing unit and/or 2 agency office. And they assist any new member, new 3 employee with the benefits enrollment. 4 Q. And how are eligible employees enrolled in the 5 Plan? 6 A. Again, they can go into the system either on 7 their own or call in and be enrolled by a call center 8 representative. 9 Q. Do participating employers play a role in getting 10 eligible employees enrolled in the Plan? 11 A. Yes. The HBR is very much responsible for 12 helping the member. But it's still on the member or the 13 employee to enroll in a timely fashion. There's a 30-day 14 window for which a new employee has to be enrolled. That's 15 the window. And that's in statute. 16 Q. And you said that a Health Benefits 17 Representative can provide assistance in that process. 18 A. Correct. 19 Q. What about participating employers, do they play 20 a role in this process? 21 A. In what way? 22 Q. Do participating employers play a role in the 23 process of getting an eligible -- 24 A. Only through the fact that they have an HBR 25 available.</p>

<p style="text-align: right;">Page 90</p> <p>1 Q. Do participating employers have any role in</p> <p>2 determining eligibility?</p> <p>3 A. To the extent that it's either a new hire and</p> <p>4 they're working more than 30 hours a week as a full-time</p> <p>5 employee, but other than that, no.</p> <p>6 Q. Do participating employers provide enrollment</p> <p>7 forms?</p> <p>8 A. Yes.</p> <p>9 Q. Do they transmit those enrollment forms to the</p> <p>10 Plan?</p> <p>11 A. If there's, if it's -- first of all, we do mostly</p> <p>12 electronic enrollment. So they might provide a computer</p> <p>13 for someone to enroll. I'm not -- we don't manage what the</p> <p>14 employers do as to how exactly they do it.</p> <p>15 But I know of some that will provide a computer</p> <p>16 for an employee who does not necessarily work in a desk</p> <p>17 job. But they are, they help them get enrolled. But</p> <p>18 that's, again, on the HBR and the agency or the employer.</p> <p>19 Q. Okay. And do participating employers deduct</p> <p>20 premiums from their employees' salary?</p> <p>21 A. The State Controller deducts the premiums from</p> <p>22 the salary. But it's the local HR people who are</p> <p>23 responsible for getting it right into the system, the HR</p> <p>24 payroll system.</p> <p>25 There are 408 employing units, for example, that</p>	<p style="text-align: right;">Page 92</p> <p>1 BY MS. RAVI:</p> <p>2 Q. You testified earlier that Plan staff discussed</p> <p>3 the statement regarding the legal and medical uncertainty</p> <p>4 of coverage for gender dysphoria treatment.</p> <p>5 Is that right?</p> <p>6 A. Yes.</p> <p>7 Q. When was this discussed among Plan staff?</p> <p>8 A. When?</p> <p>9 Q. Yes.</p> <p>10 A. We discuss all kinds of things every single day</p> <p>11 about coverage for everything we offer. And so to pinpoint</p> <p>12 a day, I couldn't possibly do it.</p> <p>13 Q. Are you aware of any specific day on which Plan</p> <p>14 staff discussed the medical uncertainty of coverage for</p> <p>15 gender dysphoria treatment?</p> <p>16 A. Not at all.</p> <p>17 Q. Are you aware of who would have discussed this</p> <p>18 issue?</p> <p>19 A. It may have been like Caroline Smart and I might</p> <p>20 have talked about it. As I mentioned, I think I mentioned</p> <p>21 these same names earlier, Ted Enarson, Caroline Smart,</p> <p>22 either Andrew or Kendall, again, just general</p> <p>23 conversations, what we've heard, what we know.</p> <p>24 We're not clinicians. I have a very, very, very</p> <p>25 small staff. And we mostly manage contracts. And so we do</p>
<p style="text-align: right;">Page 91</p> <p>1 constitutes, like 108 are local education authorities, so</p> <p>2 all the public school systems. Each one of them has a</p> <p>3 payroll system. So we have integration from 408 different</p> <p>4 locations into our system. And they're all different.</p> <p>5 We have the Beacon agencies, which represent the</p> <p>6 state agencies if you will. The educational systems are</p> <p>7 just very different. General Assembly has their own</p> <p>8 payroll system.</p> <p>9 And so all of that comes in. And each employing</p> <p>10 unit is responsible for getting the accurate information</p> <p>11 into their own payroll system.</p> <p>12 And then Blue Cross does the billing. We'll send</p> <p>13 them an aggregated bill to know how much, how many active</p> <p>14 members are on the payroll, on the Plan for a particular</p> <p>15 month. We bill in advance. And then the money gets moved</p> <p>16 around electronically.</p> <p>17 Q. And who determines whether the exclusion remains</p> <p>18 in the Plan?</p> <p>19 A. Say that again please.</p> <p>20 Q. Who determines whether the exclusion remains in</p> <p>21 the Plan?</p> <p>22 A. The board.</p> <p>23 MS. RAVI: Can we go off the record?</p> <p>24 (Off the record)</p> <p>25 MS. RAVI: Back on the record.</p>	<p style="text-align: right;">Page 93</p> <p>1 a lot of research. We have, you know, a big engine, but we</p> <p>2 still don't have a lot of expertise. And so we rely on our</p> <p>3 own thought.</p> <p>4 And then we research what we find out, you know,</p> <p>5 what we need to research, we reach out to resources --</p> <p>6 because we have Blue Cross to reach out to, we have CVS to</p> <p>7 reach out to -- to gain knowledge. So, again, that's what</p> <p>8 we do every single day.</p> <p>9 Q. What year would you have discussed with Caroline</p> <p>10 and Ted and the other Plan staff you mentioned, what year</p> <p>11 would you have discussed the legal and medical uncertainty</p> <p>12 of gender dysphoria treatment?</p> <p>13 A. It would have had to have been no earlier than</p> <p>14 2017, June forward if you will. And then it would have</p> <p>15 probably been into 2018.</p> <p>16 Q. Okay. Was this discussed after 2018?</p> <p>17 A. Possibly.</p> <p>18 Q. When would that have been?</p> <p>19 A. No particular time.</p> <p>20 Q. Is the Plan aware of whether after 2018 this</p> <p>21 issue would have been discussed?</p> <p>22 A. As I said before, we discuss everything. We</p> <p>23 discuss all sorts of issues every single day.</p> <p>24 So there's just no possible way I can respond to</p> <p>25 a particular issue -- no matter the fact that it is your</p>

<p style="text-align: right;">Page 94</p> <p>1 important issue.</p> <p>2 But I have important issues that come up every</p> <p>3 single day with populations after, especially during board</p> <p>4 meetings, when different populations want to come and ask</p> <p>5 for another treatment. So we have them come up every board</p> <p>6 meeting.</p> <p>7 And so it is not possible to talk about which day</p> <p>8 did we talk about what topic. It's just not going to</p> <p>9 happen.</p> <p>10 Q. So the Plan is aware that in, starting June 2017</p> <p>11 into 2018, the statement regarding legal and medical</p> <p>12 uncertainty of gender dysphoria treatment was discussed --</p> <p>13 A. Absolutely.</p> <p>14 Q. -- in that period?</p> <p>15 A. So I will say more specifically, you know, again,</p> <p>16 after this, one of the very first e-mails I got from former</p> <p>17 counsel to Lotta Crabtree was from Ashley Gellahan.</p> <p>18 And while he's an attorney, so I can't divulge</p> <p>19 some of the information, we all became very much aware of</p> <p>20 the Franciscan Alliance opinion. And we've been aware of</p> <p>21 opinions throughout. And so -- Bostock last year.</p> <p>22 So believe me, this comes up a lot in a lot of</p> <p>23 settings, in a variety of settings. And it's just not</p> <p>24 possible to talk about specific ones.</p> <p>25 Q. So is it fair to say that, speaking in the period</p>	<p style="text-align: right;">Page 96</p> <p>1 A. Having been at the state for a while, I'm very</p> <p>2 much aware of Kaiser being kind of a go-to resource, as</p> <p>3 well as Milliman, and the New England Journal of Medicine.</p> <p>4 Again, there's articles published. Again, once</p> <p>5 you get started on some of those distribution lists, you</p> <p>6 get stuff all the time. And there's no possible way to</p> <p>7 read all of it.</p> <p>8 Q. When did you do this research?</p> <p>9 A. I don't know. It could have been any day, any</p> <p>10 time of day, any week over the last several years.</p> <p>11 Q. So between June of 2017, when you started at the</p> <p>12 Plan, and today, can you pinpoint any specific time when</p> <p>13 you did this research?</p> <p>14 A. Probably in the fall, I would say in the fall of</p> <p>15 2017. Because, quite frankly, the topic had never entered</p> <p>16 my mind. So that would, I would say that was a good time</p> <p>17 for it, and then maybe during 2018, again, as we're</p> <p>18 learning about more of the activities around it -- but, no.</p> <p>19 Q. Let's start with fall of 2017. Did you speak</p> <p>20 with anyone about what resources would be helpful to look</p> <p>21 into regarding the medical necessity of gender dysphoria</p> <p>22 treatment?</p> <p>23 A. We talked to Blue Cross and CVS and Segal during</p> <p>24 that time frame.</p> <p>25 Q. How did you find the resources that you reviewed?</p>
<p style="text-align: right;">Page 95</p> <p>1 after 2018, the Plan is not aware of any specific time when</p> <p>2 the medical uncertainty of gender dysphoria treatment was</p> <p>3 discussed?</p> <p>4 A. That may be fair.</p> <p>5 Q. And you mentioned that the Plan has resources</p> <p>6 that it can reach out to for information on this topic.</p> <p>7 You said that Blue Cross Blue Shield is one of those</p> <p>8 resources and CVS.</p> <p>9 Are there any other resources?</p> <p>10 A. Those are our main go-tos. Segal, we talk to</p> <p>11 Segal. They have consulting staff that includes</p> <p>12 clinicians.</p> <p>13 Q. Any other resources for the topic of gender</p> <p>14 dysphoria treatment?</p> <p>15 A. No.</p> <p>16 Q. All right. And you testified earlier that you,</p> <p>17 yourself, did some research into the medical necessity of</p> <p>18 gender dysphoria treatment.</p> <p>19 Is that right?</p> <p>20 A. Yes.</p> <p>21 Q. You said that you researched Kaiser, Milliman,</p> <p>22 and the New England Journal of Medicine.</p> <p>23 Is that right?</p> <p>24 A. Yes.</p> <p>25 Q. How did you decide to look at those resources?</p>	<p style="text-align: right;">Page 97</p> <p>1 A. I reached out to Segal, Blue Cross, and CVS.</p> <p>2 They are our partners. They all have clinical staff. And</p> <p>3 that's where we get our, a lot of our clinical feedback.</p> <p>4 Q. Did you save your research?</p> <p>5 A. What's that?</p> <p>6 Q. Did you save your research?</p> <p>7 A. No.</p> <p>8 Q. Why not?</p> <p>9 A. Because I wasn't researching to write a white</p> <p>10 paper.</p> <p>11 Q. So is it correct that that research has not been</p> <p>12 produced to the plaintiffs at this point?</p> <p>13 A. Right. General curiosity.</p> <p>14 Q. In the fall of 2017, how long did you spend</p> <p>15 researching these issues?</p> <p>16 A. Several hours maybe.</p> <p>17 Q. And you said maybe again in 2018. How long did</p> <p>18 you spend in 2018?</p> <p>19 A. Probably less.</p> <p>20 Q. Did you share your research with anyone?</p> <p>21 A. The staff discussed it. They may have researched</p> <p>22 as well. And, again, it was more general conversation.</p> <p>23 Q. Who at the, in the staff did you share your</p> <p>24 research with?</p> <p>25 A. Caroline, Ted, Beth. It's my leadership team, we</p>

<p style="text-align: right;">Page 98</p> <p>1 talk about everything.</p> <p>2 Q. And you said they may also have researched?</p> <p>3 A. Uh-huh.</p> <p>4 Q. Are you aware of what research they did?</p> <p>5 A. No. I said they may have also researched. So I</p> <p>6 don't know if they did or didn't.</p> <p>7 Q. Speaking of Kaiser, what resources did you look</p> <p>8 at for Kaiser?</p> <p>9 A. I just searched gender dysphoria, transition</p> <p>10 surgery.</p> <p>11 Q. Did you review articles?</p> <p>12 A. Uh-huh.</p> <p>13 Q. From Kaiser?</p> <p>14 A. Uh-huh.</p> <p>15 Q. Okay. What were those articles?</p> <p>16 A. I don't know.</p> <p>17 Q. Do you remember the date of the articles?</p> <p>18 A. Time range that we've already established. And</p> <p>19 it would have been current because I'm also aware of the</p> <p>20 changing atmosphere or landscape. I've seen articles that</p> <p>21 are from -- so, for example, in that PowerPoint</p> <p>22 presentation, there was references to 2008, which is quite</p> <p>23 some time ago. So I was looking for something more</p> <p>24 current. So I would have looked for more current articles.</p> <p>25 But there's nothing that I have or remember or</p>	<p style="text-align: right;">Page 100</p> <p>1 related to Kaiser?</p> <p>2 A. No.</p> <p>3 Q. Did what you looked at discuss the DSM-5?</p> <p>4 A. No.</p> <p>5 Q. Did it discuss the WPATH Standards of Care?</p> <p>6 A. No. And, you know, the Plan doesn't necessarily,</p> <p>7 the Plan staff today does not necessarily hold with the</p> <p>8 same conclusions that were made by Plan staff back in 2016.</p> <p>9 It's a different group of people.</p> <p>10 And so I would say that we don't necessarily have</p> <p>11 the same opinion, not to mention the fact that the basis</p> <p>12 for the argument back in 2016 was the 1557 Rule and the</p> <p>13 fear of or concern of losing federal dollars.</p> <p>14 So it, from looking through all of the e-mails,</p> <p>15 it, that was the crux of the issue, of the coverage.</p> <p>16 And it appeared that there were varying, well,</p> <p>17 through the document that we already looked through, that</p> <p>18 there were just several pages of information that supported</p> <p>19 the conclusion to add the benefit, to remove the exclusion.</p> <p>20 So, again, the crux of the issue was the 1557</p> <p>21 Rule.</p> <p>22 So at this point, you know, the team back at that</p> <p>23 time went down the path of supporting the 1557 Rule and</p> <p>24 removing the exclusion using some of those other sources.</p> <p>25 But I don't -- the Plan staff today, I'm not sure</p>
<p style="text-align: right;">Page 99</p> <p>1 produced in that space.</p> <p>2 Q. So with regard to your research for Kaiser, you</p> <p>3 reviewed articles --</p> <p>4 A. Uh-huh.</p> <p>5 Q. -- from Kaiser? Do you recall the names of those</p> <p>6 articles?</p> <p>7 A. No.</p> <p>8 Q. Do you recall the date of any of them?</p> <p>9 A. No.</p> <p>10 Q. What were the key points made in those articles?</p> <p>11 A. Everybody has got an opinion about the validity</p> <p>12 and the efficacy of the treatment, whether or not it should</p> <p>13 be warranted for people under 18, for kids, if you will.</p> <p>14 It was a question of whether or not people would</p> <p>15 want to, did it help the emotional and mental illness</p> <p>16 issues that surround gender transformation or gender</p> <p>17 dysphoria rather.</p> <p>18 And there is, of course, evidence of those who</p> <p>19 have transitioned and then went back and, or didn't go back</p> <p>20 but regretted it rather.</p> <p>21 Q. Who from Kaiser made those statements?</p> <p>22 MR. RULEY: Objection to form.</p> <p>23 THE WITNESS: I said I don't know.</p> <p>24 BY MS. RAVI:</p> <p>25 Q. Did you look at anything other than articles</p>	<p style="text-align: right;">Page 101</p> <p>1 that we have the same view of WPATH and DSM.</p> <p>2 And I'm not a clinician, so I can't offer anything</p> <p>3 further. But, again, that's them and then. And today it's</p> <p>4 a different day.</p> <p>5 Q. Who on Plan staff is different from Plan staff in</p> <p>6 December of 2016?</p> <p>7 A. So key people. Key people were Mona Moon is no</p> <p>8 longer part of the Plan staff. Lotta Crabtree is no longer</p> <p>9 part of the Plan staff. Blake Thomas, who is, he's one of</p> <p>10 the attorneys, he's not at the department anymore. Mark</p> <p>11 Collins is not there anymore.</p> <p>12 And we have structured, the Plan is structured</p> <p>13 differently. There was a small group that did everything</p> <p>14 back in those, in the 2016 time frame. And now there's a</p> <p>15 much broader perspective.</p> <p>16 Q. Who replaced Mona Moon?</p> <p>17 A. Me.</p> <p>18 Q. Who replaced Lotta?</p> <p>19 A. We didn't directly replace Lotta. We did it</p> <p>20 differently.</p> <p>21 Q. Who replaced Blake?</p> <p>22 A. Kendall. It was Andrew Norton first and then</p> <p>23 Kendall.</p> <p>24 Q. And Mark Collins?</p> <p>25 A. Slightly different but her, slightly different</p>

<p style="text-align: right;">Page 102</p> <p>1 role, but I would say we have two people, we have a real 2 actuary, Charles Seifert. And we have a financial analyst, 3 Tamera McNeal.</p> <p>4 Q. And you said it's a different perspective with 5 regard to how issues are approached with current Plan 6 staff --</p> <p>7 A. Uh-huh.</p> <p>8 Q. -- as opposed to Plan staff in 2016.</p> <p>9 A. Uh-huh.</p> <p>10 Q. Can you clarify that?</p> <p>11 A. In 2016, there was Mona and Lotta and Caroline. 12 And they seemed to make all the decisions and were 13 supported by staff and maybe some of the clinical 14 perspective that -- they actually had more clinicians back 15 in those days.</p> <p>16 Today, we are a flatter staff. And we have a very 17 diverse group of experience and background and skill sets. 18 And so we bring them all to the table.</p> <p>19 And we work through -- again, our focus, at the 20 direction of the Treasurer, is about making sure the Plan is 21 in existence tomorrow, in five years, in ten years.</p> <p>22 And that's really hard to do when we're being 23 funded at a 4 percent or better or less level, and our trend 24 rates are at 7 percent. The math just doesn't work.</p> <p>25 Q. With regard to the Plan's current staff, is there</p>	<p style="text-align: right;">Page 104</p> <p>1 not personal. This is not something that I get to make a 2 choice about. Because if I had every single group that 3 comes in to ask for a benefit, if I covered that, then I 4 would be completely, completely avoiding my fiduciary 5 responsibility to cover basic health. That's what the Plan 6 Benefits Booklet says, right?</p> <p>7 The Plan Benefits Booklet identifies every single 8 thing I cover. And it provides healthcare. We want every 9 member of the Plan to have good healthcare. We want the -- 10 and the reality is we have a lot of members who have 11 diabetes. We have a lot of members who have orthopedic 12 issues. We have a lot of members who have RA. We have 13 really a lot of members who have cancer. And they want to 14 be, they want to be covered.</p> <p>15 And so it's really difficult for me to just say, 16 you know, I can take this group of 25 and this group of 10 17 and these -- if you add all that up -- I'll, I'll totally 18 admit that the cost of this benefit is not going to break 19 the Plan, never was, never will.</p> <p>20 But it -- I can't do it for that group and not do 21 it for the group that wants it for their infants, for, you 22 know, for a certain feeding formula for that infant group, 23 and I can't do it for the hearing aid group, and I can't do 24 it for the group that really wants acupuncture.</p> <p>25 Because once you start adding those, then I have</p>
<p style="text-align: right;">Page 103</p> <p>1 anyone on the Plan's current staff who would be involved in 2 discussions regarding legal or medical uncertainty about 3 treatment for gender dysphoria who is a doctor?</p> <p>4 A. No. Nobody on Plan staff is a doctor.</p> <p>5 Q. Is there anyone on Plan staff discussing these 6 issues who is a clinician?</p> <p>7 A. We have a nurse and a pharmacist.</p> <p>8 Q. Who are they?</p> <p>9 A. The nurse is Sonja Dunn. And the pharmacist is 10 Stephanie Craycroft-Andrews.</p> <p>11 Q. Are either Stephanie or Sonja experts in the 12 field of transgender healthcare?</p> <p>13 A. No.</p> <p>14 Q. Is anyone on the Plan staff today an expert in 15 that field?</p> <p>16 A. No. We would not ever, we would not hire someone 17 that is -- we would need -- if we were hiring someone that 18 is an expert in a field, it's not going to be someone who 19 is an expert in a very small field that we don't cover.</p> <p>20 And because of the fact that I'm not covering 21 niche groups, I'm unlikely to cover in the current, today 22 or tomorrow or next week -- as long as I'm part of the Plan 23 and we're still trying to focus on costs, then that's just 24 not going to, it's not going to be my focus.</p> <p>25 As I said before and I'll say it again, this is</p>	<p style="text-align: right;">Page 105</p> <p>1 to keep going. Everybody who comes in and wants a benefit, 2 I'll have to do it because I can't discriminate.</p> <p>3 I'm not discriminating. This is about what the 4 Plan can afford in the environment that we're in today -- 5 which is I have a General Assembly that's funding me at 4 6 percent when my trend rate is 7 plus. And that's not even 7 absolutely certain.</p> <p>8 I have a 28.8 billion unfunded liability for 9 retiree healthcare that I, myself, am ready to have in a few 10 years.</p> <p>11 And so, you know, this is all about being a 12 government plan. And I don't get to, I don't get to pick 13 and choose. I'm not a commercial plan.</p> <p>14 So let's start with that. A commercial plan, they 15 have revenues, right? You go out and sell widgets, and you 16 sell a lot of widgets, and then you decide how much you want 17 to put into the benefit. And you can have your member, your 18 staff, your employees pay.</p> <p>19 I would bet most employers -- I was paying 100 20 bucks when I was at Time Warner. I was paying for the 21 family, and I wasn't fully subsidized.</p> <p>22 At the State Health Plan, we've got people who, a 23 whole lot of employees have to work one week out of a month 24 just to cover their Health Plan for their family.</p> <p>25 And the effort to just institute a 25 dollar</p>

<p style="text-align: right;">Page 106</p> <p>1 premium for the 70/30 Plan and a 50 dollar premium for the</p> <p>2 80/20 Plan was a herculean effort. They had never paid</p> <p>3 anything until 2018. Employees had never paid anything</p> <p>4 until 2018 -- which is crazy. I mean I get that.</p> <p>5 But we can't just keep adding costs to the Plan.</p> <p>6 And the General Assembly, in the 2016 budget, I</p> <p>7 think it's 2016-94, something like that, said you got to</p> <p>8 stop, you've got to control your costs, you're not getting</p> <p>9 more than 4 percent, and you can't go over.</p> <p>10 So what happens when I spend more than I've got?</p> <p>11 I've got to charge employees. And I got to charge employees</p> <p>12 who, you know, read the, you know employees don't make</p> <p>13 market rates. They just don't.</p> <p>14 And so it is a very tight -- I mean I live in a</p> <p>15 box. And there's not a lot of room in the box to move</p> <p>16 because I have the General Assembly describing what I can</p> <p>17 do. You know, it's all -- eligibility, it's all in statute.</p> <p>18 My funding is all in statute, in the budget bill. And</p> <p>19 that's one box.</p> <p>20 I work with vendors who I have to make them work</p> <p>21 together. And, quite frankly, as big as we are, I got at</p> <p>22 least one vendor that's not real cooperative. And it's</p> <p>23 really annoying. But it doesn't matter -- apparently, to</p> <p>24 some vendors, it doesn't matter that we're the biggest</p> <p>25 Health Plan, you know, one of the biggest in the nation.</p>	<p style="text-align: right;">Page 108</p> <p>1 I walk in the door. And it is, like I said before, it</p> <p>2 breaks my heart that I can't cover everybody.</p> <p>3 I mean I have to deny people who enrolled 10 days</p> <p>4 later than the deadline. Sorry, can't do it. Statute says</p> <p>5 30 days, can't do it.</p> <p>6 I have to deny people that, that have no money to</p> <p>7 cover their spouse, who then got a job, who forgot to take</p> <p>8 themselves off the Plan within the 30 day window, made it 45</p> <p>9 days, and I can't, and I can't let them go.</p> <p>10 So this is, this is not about doing -- I am not in</p> <p>11 a position to do what I would like to do or anybody I work</p> <p>12 with to do what I want to do.</p> <p>13 This is about I work for the taxpayers of North</p> <p>14 Carolina. And I work for the Treasurer. And I work for</p> <p>15 every single member, 740,000 plus members and their</p> <p>16 dependents, every single day. And that's some weight.</p> <p>17 That's some weight.</p> <p>18 And I empathize with everybody who comes in the</p> <p>19 door all day long. I just can't do everything for</p> <p>20 everybody.</p> <p>21 And so if someone wants to sign up for the Health</p> <p>22 Plan to get good healthcare, to cover their diabetes, to</p> <p>23 cover their cancer, to cover their primary care visits,</p> <p>24 we're a great Health Plan. But we're not going to be the</p> <p>25 Health Plan for everybody. And that's just not how we were</p>
<p style="text-align: right;">Page 107</p> <p>1 And it may sound big and like we can get all this</p> <p>2 buying power. We don't have all the buying power. The</p> <p>3 hospitals and the providers that work in the hospitals are</p> <p>4 killing us all from a cost standpoint.</p> <p>5 And so it's, you know, my focus is to be able to</p> <p>6 reduce family premiums 100 bucks. That's my, that is one of</p> <p>7 my biggest goals right now. And that is the only way I'm</p> <p>8 going to get an uptick -- to bill 100 dollars -- I'm paying</p> <p>9 right now 720 dollars for three people. That's a lot of</p> <p>10 money. And I am grateful that I can afford it. But for</p> <p>11 your average teacher, they can't afford that.</p> <p>12 And I'm going to have to reduce the family premium</p> <p>13 100 bucks at a minimum to make somebody take it up.</p> <p>14 And so until I can take that kind of money out of</p> <p>15 the Plan and at the same time shore up the Retiree Health</p> <p>16 Benefit Trust Fund for the unfunded liability and make up</p> <p>17 trend -- oh, by the way, they're not covering COVID costs</p> <p>18 right now. The General Assembly is not interested in giving</p> <p>19 us back our money for COVID.</p> <p>20 So people ask me why carry a billion dollar</p> <p>21 budget, cash, cash balance? It's to make up for things like</p> <p>22 that. Like a bad flu season, which we're going to have,</p> <p>23 we're going to have it if we're not careful about vaccines</p> <p>24 and COVID's still raging.</p> <p>25 I mean that's what I have to live with every day</p>	<p style="text-align: right;">Page 109</p> <p>1 ever set up. It's never been set up to do that.</p> <p>2 Sorry, that was a long-winded answer.</p> <p>3 Q. Since you started at the Plan, what benefits has</p> <p>4 the Plan added to its Plan booklets?</p> <p>5 A. We have added some insignificant benefits,</p> <p>6 generally speaking. We have made, we've moved forward with</p> <p>7 some mental health parity, a couple of mental health parity</p> <p>8 benefits that we needed to make sure we were in compliance.</p> <p>9 Which every now and again -- I think, as I</p> <p>10 mentioned already, that we use the previous benefit roster,</p> <p>11 if you will, as we move into the next benefit year --</p> <p>12 sometimes, we, the Plan and Blue Cross get a little</p> <p>13 off-kilter.</p> <p>14 As I've already said, we intentionally differ on</p> <p>15 some benefits, but not on all of them. And so we will do a</p> <p>16 somewhat routine righting of the ship.</p> <p>17 And there are small things that we have added,</p> <p>18 but I wouldn't necessarily call many of them substantial</p> <p>19 benefits. It may be coverage for a, you know, a water</p> <p>20 bottle, hot water bottle. That would be something small.</p> <p>21 We're definitely focused on mental health parity.</p> <p>22 Right now, those are really important for us to make sure</p> <p>23 we're aligned with.</p> <p>24 I think I already mentioned the digital</p> <p>25 mammography, but that was before I started.</p>

<p style="text-align: right;">Page 110</p> <p>1 We are considering continuous glucose monitors. 2 Again, it has not been approved, so I'm just, it's 3 considered. But that would be to try a different mechanism 4 for payment. 5 Again, we have a lot of diabetics. So a 6 continuous glucose monitor is already covered under the 7 medical benefits. We're not adding it, we're just 8 changing, we're adding a different mechanism for payment, 9 putting it under the pharmacy benefit, to see where we get 10 the greatest adherence. 11 Q. And any others that you recall? 12 A. Not that I can -- I feel like I'm forgetting one. 13 But if it comes to me, I will -- I can't think of it, 14 anything else right now. 15 Q. And since you have joined the Plan, is there 16 anywhere where Plan staff have documented the Plan's 17 position as to the medical necessity of treatment for 18 gender dysphoria? 19 A. Since I've been at the Plan, no. 20 Q. So turning back to the research you did in 2017, 21 maybe 2018, regarding Kaiser, are you aware of whether 22 Kaiser covers treatment for gender dysphoria as medically 23 necessary? 24 A. I don't know. And it would not be top of my 25 mind.</p>	<p style="text-align: right;">Page 112</p> <p>1 Q. Do you recall if what you looked at discussed the 2 WPATH Standards of Care -- 3 A. No. 4 Q. -- for gender dysphoria? 5 You said you reviewed articles from Milliman's 6 website. Is that right? 7 A. Articles, writings, white papers -- again, 8 probably at a high level. 9 Q. Could you clarify what you mean by high level? 10 A. Not in depth. 11 Q. So is it the case that you were researching at a 12 high level or reviewing at a high level? 13 A. Reviewing would be a good word. 14 Q. Okay. Anything else that you looked at from 15 Milliman? 16 A. No. 17 Q. What is Milliman? 18 A. Think tank, healthcare think tank. 19 Q. Do they provide analysis of medical certainty 20 regarding certain treatment? 21 A. Maybe. 22 Q. Did you look into that when you were doing this 23 research? 24 A. Maybe. 25 Q. Do you recall?</p>
<p style="text-align: right;">Page 111</p> <p>1 Q. Is that something you looked into in your 2 research? 3 A. I don't recall. 4 Q. What resources did you look at from Milliman in 5 late 2017 into 2018? 6 A. Same thing, same as I did with Kaiser. I just 7 researched, I searched for gender dysphoria and see what 8 articles come up. 9 And, again, I have -- I'm sure it doesn't matter 10 to you -- but my day is very challenging. And I've got 11 like 10 minutes to do stuff. I have very small amounts of 12 time. 13 And I'm not trying to diminish the importance, 14 but I've got to find stuff quick. And I've got to find it 15 and it's got to be quick and get to the point. Not a lot 16 of medical journals do that. So you have to kind of read 17 the executive, the excerpt. 18 So, again, it's got to be quick and dirty. I'm 19 doing it very fast. And I'm trying to get as much in my 20 head. 21 Q. And you said you searched for articles regarding 22 Milliman, where were you researching? 23 A. On the Milliman website. 24 Q. Do you recall the dates of what you looked at? 25 A. No.</p>	<p style="text-align: right;">Page 113</p> <p>1 A. I don't know. 2 Q. Is the Plan aware of Milliman's position on 3 blanket exclusions on coverage for gender dysphoria 4 treatment? 5 A. I'm not. I can't speak for the Plan on that 6 particular thing. Meaning I know what I -- I'm not -- it's 7 -- not me personally, I'm not familiar. 8 Q. Okay. And speaking as the Plan's 30(b)(6) 9 designee, you are not aware if the Plan is aware -- 10 A. I'm not aware. 11 Q. What resources did you look at for the New 12 England Journal of Medicine? 13 A. What I have access to -- which is not a lot. You 14 have to pay big bucks for that. 15 Q. What do you have access to? 16 A. Just high level, what, when you search the New 17 England Journal of Medicine, you get the abstracts 18 generally speaking. 19 Q. So you have access to the Journal's abstracts of 20 its articles? 21 A. Yes. 22 Q. Did you review anything beyond the abstracts? 23 A. No. You've got to pay for that. We've got to 24 watch our costs. 25 Q. Which abstracts did you review?</p>

<p style="text-align: right;">Page 114</p> <p>1 A. I don't know.</p> <p>2 Q. Do you remember the date on any of them?</p> <p>3 A. No.</p> <p>4 Q. Do you remember who wrote any of them?</p> <p>5 A. No. At the time, I was just looking for personal</p> <p>6 knowledge, not for preparing for a deposition.</p> <p>7 Q. Do you recall if those, if the abstracts you</p> <p>8 reviewed made any mention of DSM-5?</p> <p>9 A. No. I didn't know what it was at the time.</p> <p>10 Q. Did they make any mention of the WPATH Standards</p> <p>11 of Care?</p> <p>12 A. I wouldn't have known at the time.</p> <p>13 Q. Have you read the section of the DSM-5 relating</p> <p>14 to gender dysphoria?</p> <p>15 A. No. I don't think so.</p> <p>16 Q. Have you read the WPATH Standards of Care?</p> <p>17 A. I don't think so.</p> <p>18 Q. What about AMA Resolution 122?</p> <p>19 A. I don't believe so.</p> <p>20 Q. And are you familiar with the Endocrine Society's</p> <p>21 Clinical Practice Guidelines for Endocrine Treatment of</p> <p>22 Gender Dysphoric Persons?</p> <p>23 A. No.</p> <p>24 Q. Other than the research you mentioned in you said</p> <p>25 late 2017, possibly into 2018, have you since researched</p>	<p style="text-align: right;">Page 116</p> <p>1 A. That would -- I can't fathom the question. I'm</p> <p>2 not a clinician.</p> <p>3 Q. Other than Kaiser, the New England Journal of</p> <p>4 Medicine, and Milliman, were there any other resources that</p> <p>5 you looked at in 2017, going into 2018?</p> <p>6 A. I'll say no.</p> <p>7 Q. Okay. All right.</p> <p>8 MS. RAVI: Could we go off the record?</p> <p>9 (Off the record)</p> <p>10 MS. RAVI: I have no further questions at this</p> <p>11 point.</p> <p>12 Thank you, Ms. Jones.</p> <p>13 MR. RULEY: Okay. Can we take like 5 or 10</p> <p>14 minutes? Let me look back over my notes. I didn't know</p> <p>15 you were going to finish.</p> <p>16 MS. RAVI: We'll reserve if we have any redirect</p> <p>17 after.</p> <p>18 MR. RULEY: It won't take more than 10 minutes.</p> <p>19 Are you going to have any questions, Alan?</p> <p>20 MR. MCINNES: I don't know.</p> <p>21 I'm going to defer to Zach, if he has --</p> <p>22 MR. PADGET: I don't. I'm not going to have any.</p> <p>23 MR. MCINNES: Okay. All right. Then I won't</p> <p>24 either.</p> <p>25 Actually, I take that back. I may have a couple</p>
<p style="text-align: right;">Page 115</p> <p>1 the issue of medical necessity of gender dysphoria</p> <p>2 treatment?</p> <p>3 A. No.</p> <p>4 Q. Have you done any research on what the medical</p> <p>5 community has to say about this issue since that time?</p> <p>6 A. No.</p> <p>7 Q. And you testified this morning about your</p> <p>8 education and your work background. Do you recall that?</p> <p>9 A. Yes.</p> <p>10 Q. Is it correct that you are not an expert in</p> <p>11 treatment protocols for transgender individuals?</p> <p>12 A. I'm not an expert. I'm not a clinician.</p> <p>13 Q. So is it correct that you're not an expert in</p> <p>14 treatment protocols for transgender individuals?</p> <p>15 A. That is correct.</p> <p>16 Q. Have you ever published on this issue?</p> <p>17 A. No.</p> <p>18 Q. And have you ever provided any kind of medical</p> <p>19 treatment to transgender patients?</p> <p>20 A. Have I personally ever provided medical</p> <p>21 treatment? Please rephrase that question.</p> <p>22 Q. Have you ever been involved in the treatment of</p> <p>23 an individual who self-identifies as transgender?</p> <p>24 A. Me personally?</p> <p>25 Q. Yes.</p>	<p style="text-align: right;">Page 117</p> <p>1 -- if that's okay.</p> <p>2 MS. RAVI: Alan, I think we're taking another 5</p> <p>3 to 10 minute break, and then we'll be back.</p> <p>4 (Off the record)</p> <p>5 MR. RULEY: I have just a few follow-up questions</p> <p>6 for you.</p> <p>7</p> <p>8 EXAMINATION</p> <p>9 BY MR. RULEY:</p> <p>10 Q. Would you find Exhibit 1 please. Would you turn</p> <p>11 to Page 50 please.</p> <p>12 Page 50 is titled What Is Not Covered? Is that</p> <p>13 right?</p> <p>14 A. That is correct.</p> <p>15 Q. And are these basically exclusions, a list of</p> <p>16 exclusions?</p> <p>17 A. Yes.</p> <p>18 Q. And would you look at the fourth bullet point.</p> <p>19 A. Yes.</p> <p>20 Q. What is that exclusion?</p> <p>21 A. Any experimental drug or any drug or device not</p> <p>22 approved by the Food and Drug Administration (FDA) for the</p> <p>23 applicable diagnosis or treatment.</p> <p>24 Q. Then turning the page to Page 51, the fourth</p> <p>25 bullet point from the bottom, what is that exclusion?</p>

<p style="text-align: right;">Page 118</p> <p>1 A. Surgical procedures for psychological or 2 emotional reasons. 3 Q. And would those exclusions also potentially apply 4 to coverage for gender dysphoria? 5 A. Yes. 6 Q. Earlier, you mentioned HBRs. What are they again 7 please? 8 A. Health Benefit Representatives. They are 9 actually defined in statute. And they work at the various 10 employing units. I mentioned there are 408. They are 11 liaisons to the Plan. So the Plan teaches them, keeps them 12 apprised of the benefits being offered. But they're 13 responsible for their employer's employees and getting them 14 enrolled and making sure they understand the processes. 15 Q. So are they employed by the State Health Plan or 16 by others? 17 A. By the others. 18 Q. All right. Thank you. 19 On costs -- would you get Exhibits 6 and 7 please. 20 Looking at Exhibit 6, for example, look at the 21 first e-mail on Exhibit 6, Page DEF61647, the January 22, 22 2017 e-mail. 23 A. Yes. 24 Q. And that reports, as of 1-21, a total paid of 25 287.57.</p>	<p style="text-align: right;">Page 120</p> <p>1 MR. RULEY: No further questions. 2 Thank you very much. 3 4 EXAMINATION 5 BY MR. MCINNES: 6 Q. Ms. Jones, my name is Alan McInnes. I represent 7 the North Carolina Department of Public Safety in this 8 matter. I have just a couple questions for you. 9 First question, are you aware of any state 10 agencies that offer healthcare insurance to their employees 11 outside of the State Health Plan? 12 A. No. I'm not. 13 Q. Okay. And would you be aware of any state 14 agencies that were offering healthcare insurance to its 15 employees outside of the State Health Plan? 16 A. So if I might clarify -- each of the state 17 agencies have the ability to offer supplemental plans. 18 And so if an agency is offering a supplemental 19 plan, there's cancer insurance, there's accident insurance, 20 of course, the supplemental fully, you know, dental and 21 vision. 22 But from a comprehensive health plan, I'm not 23 aware of any state agency offering such. I don't believe 24 they can. 25 Q. Comprehensive healthcare insurance and</p>
<p style="text-align: right;">Page 119</p> <p>1 A. Yes. 2 Q. And then if you look on Exhibit 7, for the month 3 of January 2017, the Plan Paid Amount is 2628.84, correct? 4 A. Correct. 5 Q. So a discrepancy. Do you know or does the Plan 6 have information on what the actual numbers were? 7 A. I think in a word, no. It's very difficult for 8 the Plan to understand these costs simply because it 9 depends on whether a provider provided the coding and 10 diagnosis codes of gender dysphoria. 11 CVS' numbers are not included in this, so that we 12 don't know. 13 So, again, we don't have visibility or access to 14 some of this information that Blue Cross has. We don't have 15 access to provider contracts, et cetera. So I think there's 16 some fundamental discrepancies. 17 But there are also some timing discrepancies. So 18 a, this, on the e-mail, 61647, the amount of 287.57 might 19 have been for one claim. 20 The January 2017 number of 2628.84 might have been 21 the full January compliment of Plan Paid Amount, but it was 22 run somewhere around 90 days later. 23 So the timing of all this -- I mean to look at 24 something on January 22, 2017, on 61647, is meaningless 25 because of the timing.</p>	<p style="text-align: right;">Page 121</p> <p>1 prospectus, are the state agencies required by statute to 2 provide them through the State Health Plan? 3 A. Yes. 4 Q. Okay. In, in your research, are you aware of any 5 supplemental healthcare insurance that is offered only for 6 gender dysphoria treatment? 7 A. No. I'm not aware of any. 8 MR. MCINNES: That's all the questions I have. 9 MR. PADGET: Nothing from me. 10 MS. RAVI: Could we go off the record? 11 (Off the record) 12 MS. RAVI: I have no further questions today. 13 Thank you very much for your time, Ms. Jones. 14 THE WITNESS: Thank you. Appreciate it. 15 (Deposition concluded at 2:58 p.m.) 16 17 18 19 20 21 22 23 24 25</p>

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1

2 CERTIFICATE OF REPORTER

3

4 STATE OF NORTH CAROLINA AT LARGE, to wit:

5

6 I, Michelle Maar, RDR, RMR, FCRR, the officer before

7 whom the foregoing deposition was taken, do hereby certify

8 that the witness whose testimony appears in the foregoing

9 deposition was duly sworn by me, that the testimony of said

10 witness was taken by me to the best of my ability and

11 thereafter reduced to writing under my direction;

12 That I am neither counsel for, related to, nor

13 employed by any of the parties to the action in which this

14 deposition was taken, and further that I am not a relative

15 or employee of any attorney or counsel employed by the

16 parties thereto, nor financially or otherwise interested in

17 the outcome of the action.

18

19

20 Michelle Maar

21

22 Michelle Maar, Court Reporter

23

24 Notary Public #201628400102

25 My Commission expires October 4, 2021

Page 123

1 Alan M. Ruley, Esq.

2 Aruley@belldavispiatt.com

3 August 16, 2021

4 RE: Kadel, Et Al v. Folwell

5 8/3/2021, Dee Jones (#4714238)

6 The above-referenced transcript is available for

7 review.

8 Within the applicable timeframe, the witness should

9 read the testimony to verify its accuracy. If there are

10 any changes, the witness should note those with the

11 reason, on the attached Errata Sheet.

12 The witness should sign the Acknowledgment of

13 Deponent and Errata and return to the deposing attorney.

14 Copies should be sent to all counsel, and to Veritext at

15 erratas-cs@veritext.com

16

17 Return completed errata within 30 days from

18 receipt of testimony.

19 If the witness fails to do so within the time

20 allotted, the transcript may be used as if signed.

21

22 Yours,

23 Veritext Legal Solutions

24

25

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1 Kadel, Et Al v. Folwell

2 Dee Jones (#4714238)

3 ERRATA SHEET

4 PAGE____ LINE____ CHANGE____

5 _____

6 REASON_____

7 PAGE____ LINE____ CHANGE____

8 _____

9 REASON_____

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19 PAGE____ LINE____ CHANGE____

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21 REASON_____

22 _____

23 _____

24 Dee Jones Date

25

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1 Kadel, Et Al v. Folwell

2 Dee Jones (#4714238)

3 ACKNOWLEDGEMENT OF DEPONENT

4 I, Dee Jones, do hereby declare that I

5 have read the foregoing transcript, I have made any

6 corrections, additions, or changes I deemed necessary as

7 noted above to be appended hereto, and that the same is

8 a true, correct and complete transcript of the testimony

9 given by me.

10 _____

11 _____

12 Dee Jones Date

13 *If notary is required

14 SUBSCRIBED AND SWORN TO BEFORE ME THIS

15 _____ DAY OF _____, 20____.

16 _____

17 _____

18 _____

19 NOTARY PUBLIC

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate. The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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